

NO. X06-UWY-CV-18-6046436-S : SUPERIOR COURT
ERICA LAFFERTY, ET AL. : COMPLEX LITIGATION DOCKET
V. : AT WATERBURY
ALEX EMRIC JONES, ET AL. : JUNE 7, 2022

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MOTION FOR SANCTIONS FOR BAD FAITH REMOVAL

Alex Jones's abuse of the judicial process literally knows no bounds – not content to waste this Court's time and ignore this Court's rulings, Jones expanded his bad faith abuse of process to bankruptcy, in both the United States Bankruptcy Court for the District of Connecticut and the United States Bankruptcy Court for the Southern District of Texas. Due to the plaintiffs' extreme efforts, that abuse has ended. It falls to this Court to levy sanctions on Mr. Jones for this continued misconduct.

On March 30, 2022, in the Court's order holding Mr. Jones in contempt for refusing to attend his deposition, the Court stated: "the existing trial date ... is a firm trial date and parties and counsel should plan accordingly." DN 788, 3/30/22 Hearing Tr. at 25:4-9. Alex Jones did

plan accordingly. He responded by having assetless, functionless shell companies he controls file “reorganization” bankruptcy petitions in the United States Bankruptcy Court for the Southern District of Texas. Those petitions were, in the words of the United States Trustee for Region 7, “classic bad faith filings” that “serve no valid bankruptcy purpose and were filed to gain a tactical advantage in the Sandy Hook Lawsuits.” Ex. A, Mot. of U.S. Trustee to Dismiss, Bankr. Ct. SD TX Doc. No. 22-60020, ECF No. 50 at 2. The shell companies then removed this action to the United States Bankruptcy Court for District of Connecticut based on the supposed removal jurisdiction created by the bad faith Texas bankruptcy filing. The tactical advantage sought was the exact same tactical advantage Mr. Jones has sought in this case: disruption and delay of the plaintiffs’ cases and interference with their rights to proceed to trial through abuse of the judicial process.

The plaintiffs move the Court to sanction Alex Jones for these bad-faith removals by awarding the plaintiffs their fees and costs associated with opposing the bad-faith removal and bankruptcy.

I. BACKGROUND

The Jones defendants (now Alex Jones and Free Speech Systems, LLC only) have now removed three times to the federal courts. The plaintiffs seek sanctions for this third bad faith removal.¹

¹ Prior to the most recent removal, the Jones defendants removed twice to the United States District Court and were remanded twice. *See* No.: 3:18-CV-1156 (JCH), DN 58, 11/5/18 Ruling Re: Mot. for Remand; No. 3:20-cv-1723 (JCH), DN 44, 3/5/21 Ruling Re: Mot. for Remand.

On April 18, 2022, three of the Jones defendants – Infowars, LLC; Infowars Health, LLC; and Prison Planet TV, LLC (hereafter, “the shell company debtors”) – filed petitions for chapter 11 bankruptcy in the United States Bankruptcy Court for the Southern District of Texas. *See* DN 809, Notice of Bankruptcy. That same day, the shell company debtors filed a notice stating that they had removed this action to the United States Bankruptcy Court for the District of Connecticut, citing the Texas bankruptcy as justification. *See* DN 810, Notice of Removal. Throughout discovery the Jones defendants have represented that these three entities are essentially shell companies with no employees, no business purpose, and little-to-no assets.² These entities are completely controlled by Alex Jones.³ On April 19, the Court issued an order stating that it would “take no further action unless and until all or part of this matter is remanded back by the bankruptcy court.” DN 810.10, Order.

² In this action, the corporate designee for Infowars, LLC testified that it “has no business purpose.” Ex. B, 6/23/21 Dep. Tr. at 18:13, 19:23. In the deposition of Free Speech System’s corporate designee on February 14, 2022, in a separate action brought in Texas state court against several of the Jones defendants, the corporate designee described Infowars, LLC as “just a holder” that “doesn’t do any business.” Ex. C, 2/14/2022 Dep. Tr. at 391:10, 392:5-6. The corporate designee for Infowars Health, LLC testified during a deposition in this action that the company has never employed anyone, has no office space, has never had any contracts with another person or entity, and has never conducted any business except with one other entity. *See* Ex. D, 6/23/21 Dep. Tr. at 14:4-7, 15:17-18, 15:21-23. The corporate designee for Prison Planet TV, LLC testified during a deposition in this action that the company has never employed anyone and has not had any purpose since September 2018. *See* Ex. E, 6/23/21 Dep. Tr. at 14:17-21, 19:9-11.

³ The Court has previously found that “Mr. Jones is the sole controlling authority of all the [Jones] defendants.” DN 574, 11/15/21 Mem. of Decis. at 16:18-19. The corporate designee for Infowars, LLC testified during a deposition that Alex Jones “is the sole owner and member of Infowars, LLC.” Ex. B, 6/23/21 Dep. Tr. at 19:23. The corporate designee for Infowars Health, LLC testified during a deposition that “Alex Jones is the sole owner and managing member” of Infowars Health, LLC. Ex. D, 6/23/21 Dep. Tr. at 17:10. And the corporate designee for Prison Planet TV, LLC testified during a deposition that Alex Jones is “the sole owner and managing member of Prison Planet TV, LLC.” Ex. E, 6/23/21 Dep. Tr. at 22:11-12.

On April 21, the plaintiffs filed motions⁴ for remand in the Connecticut bankruptcy court, seeking immediate remand. *See, e.g.*, Mot. for Remand, No. 22-05004, ECF No. 5. That same day, the plaintiffs also filed motions to expedite briefing and argument on the motions for remand. *See, e.g.*, Mot. for Order, No. 22-05004, ECF No. 6. On May 2, 2022, again seeking to ensure that Alex Jones and Free Speech Systems, LLC did not succeed in delaying these consolidated cases through their bad faith filings, the plaintiffs filed notices of dismissal under Fed. R. Civ. P. 41 of their claims against the shell company debtors only and sought remand. *E.g.*, Notice of Dismissal, 22-05004, ECF No. 16 at 3. The shell company debtors *objected* to the dismissal, asserting, among other things, that it might not be valid. *See, e.g.*, Obj., No. 22-05004, ECF No. 19 (denying “that a dismissal pursuant to Rule 9041 is proper and is not an automatic dismissal binding on this Court.”). They objected even though the supposed justification for their bankruptcy was the existence of the plaintiffs’ claims against them. *See, e.g.*, DN 809, Notice of Bankruptcy at Ex. A, Declaration of W. Marc Schwartz (“The Debtor’s [sic] . . . have no debt or other liabilities other than those related to pending or potential litigation”).

Meanwhile, in the Chapter 11 bankruptcy proceedings in the Texas Bankruptcy Court, the plaintiffs moved to dismiss the bankruptcy as a bad faith filing. *See* Pls.’ Mot. to Dismiss, Bankr. Ct. SD TX Doc. No. 22-60020, ECF No. 36. Sandy Hook families who have parallel cases pending in Texas, and who were also delayed by similar sham filings, also moved to dismiss. *See* TX Pls.’ Supp. Mot. to Dismiss, Bankr. Ct. SD TX Doc. No. 22-60020, ECF No. 42. The U.S. Trustee also moved to dismiss. *See* Ex. A, Mot. of U.S. Trustee to Dismiss, Bankr. Ct. SD TX Doc. No. 22-60020, ECF No. 50.

⁴ The consolidated action before this Court was removed to the bankruptcy court and placed on three separate dockets: *Lafferty v. Jones* (22-05004), *Sherlach v. Jones* (22-05005), and *Sherlach v. Jones* (22-05006).

It became clear that a dismissal of the plaintiffs' claims against the shell company defendants would result in a remand. To avoid any further possible delays by Mr. Jones, the plaintiffs obtained an order from the Connecticut Bankruptcy Court confirming that their claims against the shell company defendants were dismissed. The Connecticut Bankruptcy Court entered that order, simultaneously ordering the debtor defendants to withdraw their removals. *See, e.g.*, Order, No. 22-05004, ECF No. 33. The debtor defendants complied with the order. *See, e.g.*, Withdrawal of Removal, No. 22-05004, ECF No. 35. As a result, on May 31, this action ceased to be removed.

II. SANCTIONS FOR BAD-FAITH REMOVAL SHOULD ENTER

Alex Jones caused the shell company defendants, which he controls, to file sham “reorganization” bankruptcies and to remove to federal court in order to disrupt the proceedings in these consolidated cases pending before this Court. The United States trustee took the highly unusual step of twice submitting filings in the Texas bankruptcy objecting to the proceedings. The U.S. Trustee described the bankruptcy as “an abuse of the bankruptcy system” and a “scheme of avoiding the burdens of the bankruptcy while reaping its benefits.” Ex. F, Obj. of U.S. Trustee, Bankr. Ct. SD TX Doc. No. 20-60020, ECF No. 18 at 2.

Why didn't Alex Jones or FSS file for bankruptcy relief when Debtors did? They are both defendants in the same litigation as Debtors, and all of them have been found liable in those cases — in unliquidated amounts. Moreover, Debtors' assets are estimated to be virtually nil for a case of this significance (\$50,000), while Alex Jones and FSS are fully funding the administrative expenses of these bankruptcy cases without filing themselves. Why? It appears that *Jones intends to leverage the bankruptcy filings of his holding companies to extend the automatic stays of pending litigation against Debtors to him and FSS, while he maintains full control of FSS and its assets going forward.*

Id. (emphasis added).

The U.S. Trustee moved to dismiss the bankruptcy “because these are classic bad faith filings” that “serve no valid bankruptcy purpose and were filed to gain a tactical advantage in the Sandy Hook Lawsuits.” Ex. A, Mot. of U.S. Trustee to Dismiss, Bankr. Ct. SD TX Doc. No. 22-60020, ECF No. 50 at 2.

The strategy employed here—filing bankruptcy for three non-operating members of a larger enterprise to channel and cap liability against the other, revenue-generating members of that enterprise and its owner using a bankruptcy subchapter designed to aid small, struggling businesses—is a novel and dangerous tactic that is abusive and undermines the integrity of the bankruptcy system.

Id.

The U.S. Trustee explained that one improper purpose of the bankruptcy filings was to strip the plaintiffs of their right to have damages determined by a jury: “[A]fter removing to federal court the cases that were imminently set for damages trials, Debtors intend to force a claims *estimation* proceeding to value the claims of the Sandy Hook Plaintiffs and cap the distribution they will receive on those claims.” Ex. A, Mot. of U.S. Trustee to Dismiss at 2 n.2. (emphasis in original). According to the U.S. Trustee, the “ultimate end game” of the bankruptcy was to “shield the assets of Alex Jones, FSS, and other entities owned or controlled by Alex Jones . . . from their primary—and maybe only—creditors, the Sandy Hook Plaintiffs.” *Id.* at 3.

[T]he handwriting is on the wall that Alex Jones and FSS will seek orders of this Court staying further actions against them in the Sandy Hook Lawsuits (which they have already sought to remove based on these cases) and that they and the Debtors will ultimately seek involuntary non-consensual releases, or their functional equivalent, of the plaintiffs’ tort claims against Jones, FSS, and other related, non-debtor parties.

Id. at 19.

The U.S. Trustee emphasized that the bankruptcy and accompanying removals to federal court were a transparent “litigation tactic,” Ex. A, Mot. of U.S. Trustee to Dismiss at 29, and a

continuation of the “repeated obstruction and delay tactics,” *id.* at 26, that are well known to this Court.

[T]he timing of these filings also unquestionably supports a finding that their purpose was as a litigation tactic against the Sandy Hook Plaintiffs. . . . The cases were . . . filed only weeks after Alex Jones repeatedly refused to attend his scheduled deposition in Connecticut, after which the court again sanctioned him and advised that the trial in that case would nevertheless go forward in August 2022. . . . All the evidence suggests that Alex Jones and FSS intended and still intend to use this bankruptcy to accomplish their long-sought goal of having some other court besides those in Texas and Connecticut resolve the Sandy Hook Lawsuits.

Id. at 27-28. The U.S. Trustee explained that “[p]erhaps the best evidence that this filing is for a litigation advantage comes from Mr. Jones’s lawyer himself.” *Id.* at 28. The U.S. Trustee quoted a Wall Street Journal article containing statements from Attorney Pattis:

Mr. Jones’s lawyer, Norm Pattis, said Wednesday that they have tried to settle the case “on reasonable terms” and that Sandy Hook families “persist in trying to destroy Alex and his companies.”

“We’re turning to the bankruptcy courts to compel the plaintiffs to estimate the value of their claims in open court by discernible evidentiary standards,” Mr. Pattis said. “The plaintiffs have turned this litigation into a macabre morality play and have refused to negotiate in good faith. We hope they will show respect to the federal courts.”

Id. (emphasis in original) (quoting *Infowars Bankruptcy Delays Upcoming Sandy Hook Trial*, Wall Street Journal (April 20, 2022) available at <https://www.wsj.com/articles/infowars-bankruptcy-delaysupcoming-sandy-hook-trial-11650494400?mode=list>).

The Bankruptcy filings were “classic bad faith filings,” Ex. A, Mot. of U.S. Trustee to Dismiss at 2. The removal of this action based on these rotten bankruptcy filings was equally in bad faith. Accordingly, the Court is authorized to order sanctions. *See, e.g., Guardianship of O.D. v. Dillard*, 177 So. 3d 175, 180-81 (Miss. 2015) (state court could sanction removing party for frivolous removal to federal court); *Ex parte Bon Secours-St. Francis Xavier Hosp., Inc.*, 713

S.E.2d 624, 597-600 (S.C. 2011) (same); *In re of Rapid Settlements, Ltd's*, 359 P.3d 823, 835 (Wash. App. Ct. 2015) (approving award of fees including for effort to secure remand from improper removal); *Boyaki v. John M. O'Quinn & Assocs., PLLC*, 2014 WL 4855021, at *17-20 (Tex. App. Ct. Sept. 30, 2014) (state court could sanction removing party, including for “the improper motivation for the removal and the effect upon the state court’s function”); *Nodier v. Ungarino & Eckert, L.L.C.*, 2007 WL 1300805, at *7 (La. App. 1 Cir. May 4, 2007) (affirming sanctions order of trial court for removal that was “for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation”); *Stratton v. Frankwell Inv. Serv., Inc.*, 2000 WL 233110, at *4 (Tex. Ct. App. Mar. 2, 2000) (affirming decision to issue sanctions for wrongful removal that was an “effort to thwart the trial court's trial schedule”); *see also In re Bennett*, 960 S.W.2d 35, 40 (Tex. 1997) (“state courts retain jurisdiction after removal of a case to federal court to sanction lawyers for pre-removal conduct”); *Yow v. Jack Cooper Transp. Co.*, 43 N.E.3d 1144, 1151-52 (Ill. App. Ct. 2015) (same); *Massad v. Greaves*, 116 Conn. App. 672, 677-79 (2009) (Superior Court had jurisdiction to determine amount of attorney’s fees as appropriate sanction for improper removal).

III. SANCTIONS SOUGHT

Upon finding bad faith, the Court should issue an order sanctioning Mr. Jones and awarding the plaintiffs their fees and costs associated with defeating the bad faith removal, including fees and costs associated with motion practice in both the Connecticut and Texas bankruptcy courts. The plaintiffs will submit itemized fees and costs as appropriate if the Court deems sanctions appropriate.

IV. CONCLUSION

For these reasons, the Court should sanction Alex Jones for the bad-faith removal to federal court.

THE PLAINTIFFS,

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CERTIFICATION

I certify that a copy of the above was or will immediately be mailed or delivered electronically or nonelectronically on this date to all counsel and self-represented parties of record and that written consent for electronic delivery was received from all counsel and self-represented parties of record who were or will immediately be electronically served.

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EXHIBIT A

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

IN RE:	§	
INFOW, LLC <i>et al.</i>	§	CASE NO. 22-60020
	§	
	§	CHAPTER 11 (Subchapter V)
	§	Jointly Administered
DEBTORS. ¹	§	

**MOTION OF THE UNITED STATES TRUSTEE
TO DISMISS DEBTORS' CHAPTER 11 CASES**

TO THE HONORABLE CHRISTOPHER M. LOPEZ
UNITED STATES BANKRUPTCY JUDGE:

Kevin M. Epstein, the United States Trustee for Region 7 (the "U.S. Trustee"),
respectfully moves to dismiss the Debtors' chapter 11 cases for cause pursuant to section 1112(b)
of the Bankruptcy Code (the "Motion"), and represents as follows:

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are as follows: InfoW, LLC, f/k/a Infowars, LLC (6916) ("InfoW"), IWHealth, LLC f/k/a Infowars Health, LLC (no EIN) ("IWHealth"), Prison Planet TV, LLC (0005) ("Prison Planet"). The address for service to the Debtors is PO Box 1819, Houston, TX 77251-1819.

PRELIMINARY STATEMENT²

Debtors’ cases should be dismissed for cause under section 1112(b)(1) because these are classic bad faith filings for two primary reasons: these cases serve no valid bankruptcy purpose and were filed to gain a tactical advantage in the Sandy Hook Lawsuits. The strategy employed here—filing bankruptcy for three non-operating members of a larger enterprise to channel and cap liability against the other, revenue-generating members of that enterprise and its owner using a bankruptcy subchapter designed to aid small, struggling businesses—is a novel and dangerous tactic that is abusive and undermines the integrity of the bankruptcy system. Bankruptcy, however, is intended to protect honest but unfortunate debtors who subject themselves and their assets to the supervision of the Court.

The Debtors’ cases arise out of a series of lawsuits in Texas and Connecticut brought primarily by relatives of the 2012 Sandy Hook shooting victims (the “Sandy Hook Plaintiffs”) seeking redress for harms arising out of statements made by Alex Jones and other employees of FSS asserting that the Sandy Hook shooting was a “false flag” hoax. According to the Debtors, they filed these cases to resolve the Sandy Hook Lawsuits (in which liability has already been established and all that remains are trials establishing damages) and other litigation claims and to pay such claims “in full.”³ But despite that these lawsuits arise from Alex Jones’s and FSS’s allegedly tortious, intentional conduct, neither filed for bankruptcy. Instead, three days before

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms below or as set forth in *Debtors’ Emergency Motion for Order Authorizing Appointment of Russell F. Nelms and Richard S. Schmidt as Trustees of the 2022 Litigation Settlement Trust and Granting Related Relief*, Dkt. No. 6.

³ Unfortunately, “payment in full” is inaccurate. Rather, after removing to federal court the cases that were imminently set for damages trials, Debtors intend to force a claims *estimation* proceeding to value the claims of the Sandy Hook Plaintiffs and cap the distribution they will receive on those claims. Thus, in an Orwellian use of language, when Debtors say “payment in full,” what they actually mean is “payment of estimated damages.” See LST ¶ 10(c).

filing these cases, and eight days before jury selection was to begin in Texas, Alex Jones transferred his ownership interests in the Debtor entities into a settlement trust and, without any input from creditors, he entered into a plan support agreement that provides the roadmap for resolution of the Debtors' cases—cases that will be funded solely by Alex Jones and FSS because the Debtors have no ability to do so.

Debtors did not file these cases to reorganize their businesses or to preserve or maximize the value of their assets for the benefit of their creditors. As their proposed CRO has admitted, these Debtors have *no* businesses and *no* assets from which they earn any income.⁴ Nor were these cases filed to avoid a “race to the courthouse,” yet another self-serving pretextual justification offered by Debtors. Indeed, the Sandy Hook Plaintiffs in both the Texas and Connecticut lawsuits have sought to dismiss these cases. Instead, this bankruptcy is designed to misuse the subchapter V cases of three non-operating companies to shield the assets of Alex Jones, FSS, and other entities owned or controlled by Alex Jones or Alex Jones's insiders (the “Alex Jones Enterprise”) from their primary—and maybe only—creditors, the Sandy Hook Plaintiffs, with “Resulting Releases” for both Jones and FSS as the ultimate end game.⁵ *See, e.g.*, Plan Support Agreement (“PSA”), § 7(b); Litigation Settlement Trust (“LST”), p. 2 (Recitals); ¶¶ 2.2 and 10.1(b). Although the Debtors have not yet filed a plan, the PSA and LST

⁴ Based on statements elicited from Mr. Schwartz at the first hearing in these cases, it appears that he has recently discovered that one debtor, IWHealth, has rights to a royalty payment from which it may begin to earn \$38,000 a month. Tr. April 22, 2022 at 43, 48-9.

⁵ Moreover, this would allow Alex Jones and FSS to retain their assets that they could not otherwise retain had they themselves filed for bankruptcy. If Alex Jones were a debtor, he would not be able to discharge the claims of the Sandy Hook Plaintiffs because section 523(a)(6) excepts from discharge debts arising from willful and malicious injury. And both Alex Jones and FSS as debtors would be subject to section 1129(a)(7)'s best interest of creditors' test for plan confirmation, requiring full disclosure of the value of their assets and a showing that impaired, dissenting creditors are receiving at least as much as they would in a chapter 7 liquidation.

have set the table for these cases in a very particular way—and it is already apparent what type of meal we’re going to get.⁶ Dismissal is in the best interests of all creditors and the estates, and these cases should therefore be dismissed.

**JURISDICTION, VENUE & CONSTITUTIONAL
AUTHORITY TO ENTER A FINAL ORDER**

1. The Court has jurisdiction to consider this matter under 28 U.S.C. § 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). Debtors assert that venue is proper in this district under 28 U.S.C. § 1408.

2. This Court has constitutional authority to enter a final order in this matter. If it is determined that the bankruptcy judge does not have the constitutional authority to enter a final order or judgment in this matter, the U.S. Trustee consents to the entry of a final order or judgment by this Court in this matter.

3. Kevin M. Epstein is the duly appointed U.S. Trustee for Region 7. The U.S. Trustee has standing to raise, appear and be heard on any issue in a case or proceeding under the Bankruptcy Code. 11 U.S.C. § 307.

4. The U.S. Trustee has a statutory duty to monitor the administration of cases commenced under the Bankruptcy Code, including seeking relief under section 1112(b) of the Bankruptcy Code. 28 U.S.C. § 586(a).

5. No committee has been appointed. Unless the Court determines there is cause for the appointment of a creditors’ committee and orders the appointment of one, the U.S. Trustee is

⁶ All references to the provisions of the LST and PSA herein are to the original versions of those documents as filed as exhibits to Dkt. No. 6. The U.S. Trustee understands that Debtors have filed revised versions of the PSA and LST. Nevertheless, it is the initial versions that evidence the Debtors’ purpose in filing these cases. While the U.S. Trustee has not had a chance to digest these latest versions, it appears that these versions simply attempt to obfuscate what the earlier versions made clear—that the Debtors are using these cases to benefit Alex Jones and FSS, not the Sandy Hook Plaintiffs. The U.S. Trustee reserves his rights to supplement this Motion.

prohibited from soliciting and appointing a committee of unsecured creditors in subchapter V cases such as these. 11 U.S.C. § 1102(a)(3).

FACTUAL BACKGROUND

General Information

6. On April 17, 2022 (the “Petition Date”) and April 18, 2022,⁷ the Debtors filed chapter 11 voluntary petitions and elected to proceed under Subchapter V of chapter 11 on their respective Petitions.

7. On April 18, 2022, the Court entered the Order directing joint administration of the chapter 11 cases solely for procedural purposes. *See* Dkt. No. 8.

8. On April 18, 2022, the U.S. Trustee appointed Melissa Haselden as the Debtors’ Subchapter V Trustee. *See* Dkt. Nos. 9 and 12.

The Debtors

9. The Debtors are holding companies for certain intellectual property assets. *See* Dkt. No. 6 at ¶ 7. Specifically, as their proposed Chief Restructuring Officer (“CRO”) attests:

Debtor’s [sic] have no purpose other than to hold assets which may be used by other entities. They undertake no business activities, they do not sell, rent or lease to others anything. Their assets do not generate any income for them. They have no bank accounts and do not pay money to anyone for any reason. They have no debt or other liabilities other than those related to pending or potential litigation. For these reasons, they have no financial statements or books of account and they do not file income tax returns.

Dkt. No. 1 pp. 10-11 at ¶ 8. Based on information elicited from the proposed CRO, W. Marc Schwartz, IWHealth is also entitled to a royalty payment from Youngevity that for many years

⁷ InfoW, LLC filed just before midnight on April 17, 2022, while IWHealth, LLC and Prison Planet TV, LLC’s petitions were docketed shortly after midnight on April 18, 2022.

was paid directly to Alex Jones's personal bank account rather than IWHealth. Tr. April 22, 2022, 48-9.⁸

10. Each of the Debtors was previously located in Austin, Texas, prior to obtaining leases in Victoria, Texas, in April 2022. Tr. April 22, 2022, at 52-3.

11. Prior to April 14, 2022, Alex Jones was the 100% holder of the equity interests in the Debtors. Dkt. No. 6 at ¶ 9. The equity in each of the Debtors is now, as of three days before the Petition Date, wholly owned by a recently established Litigation Settlement Trust ("LST"). *Id.* at ¶¶ 9, 16-17. Alex Jones established the Trust on April 14, 2022, and funded the Trust with his equity interests in the Debtors and an initial funding amount from his "exempt personal assets." *Id.* at 16-17, Exhibit A (*Declaration of Trust*).

12. Alex Jones remains the 100% equity holder of FSS, through which Mr. Jones and others operate the so-called InfoWars website and related enterprises. *Id.* All the assets of FSS allegedly serve as collateral to repay obligations to PQPR Holdings, LLC ("PQPR"), a vendor to FSS. *Id.* at ¶ 8, n.1. PQPR is owned by Alex Jones's insiders.⁹ Dkt. No. 17-6.

⁸ Transcript for April 22, 2022, Hearing is attached hereto as Exhibit A.

⁹ In a lawsuit filed in Texas state court on April 6 asserting fraudulent conveyance claims against Jones, FSS, and PQPR, among others, plaintiffs alleged that PQPR filed a UCC Financing Statement claiming a security interest in essentially everything FSS owns only after the Sandy Hook Lawsuits had considerably advanced. *Heslin v. Jones*, No. D-1-GN-22-001610 (200th Dist. Tex.) Petition, ¶ 33 (filed April 6, 2022). According to plaintiffs, "[t]he [\$54 million] supposed debt began accruing years earlier as part of an arrangement where Free Speech Systems sells PQPR's products on the InfoWars website. Under this alleged arrangement, PQPR was to be reimbursed for the costs of the products and receive 70% of the sales revenue while Free Speech Systems retained the other 30%. In practice, however, Free Speech Systems supposedly kept 100% of the revenue for about seven years and didn't pay for the goods PQPR provided—to the point where a \$54 million debt had accumulated. All the while, PQPR not only supplied Free Speech Systems with more products to sell but also paid Free Speech Systems millions of dollars a year to advertise on the InfoWars website. PQPR still supplies the Alex Jones Enterprise with products to sell and pays for advertising on the website." *Id.* Plaintiffs further allege that within weeks of the default judgments, as part of a scheme to render Jones and FSS "judgment proof," FSS began transferring to PQPR "between \$11,000 per day and \$11,000 per week plus 60–80% of Free Speech Systems' sales revenue—supposedly just to pay the interest on the alleged \$54 million debt." *Id.* at ¶ 36.

13. Neither Jones, FSS, nor PQPR have filed bankruptcy petitions.

14. The list of creditors attached to each of the Debtors' petitions contain the names of the relatives of some of the 20 children and six educators killed in the 2012 Sandy Hook school shooting. *See, e.g.*, Dkt. No. 1 at pp. 6-7. Their claims are classified as "disputed" and "unliquidated." *Id.* No other creditors are listed. *See Id.*

The Pending Litigation

15. In 2018, the Sandy Hook Plaintiffs filed suits in Texas and Connecticut (collectively, the "Sandy Hook Lawsuits") against Jones, FSS, and certain of the Debtors.¹⁰ Dkt. No. 6 at ¶ 10-11. As the Debtors admit in their pleadings, "both the Texas and Connecticut courts have imposed multiple sanctions and ruled that Jones, FSS, and the Debtors failed to comply with discovery requirements such that judgment on *liability* has been entered against them by default." *Id.* at ¶ 13 (emphasis in original). The first trial on damages, in Texas, was scheduled to begin jury selection on April 25, 2022. *Id.* at ¶ 14. In the Connecticut litigation, several weeks before the bankruptcy filings, the court again sanctioned Alex Jones for failing to attend his deposition and advised that trial in that case would nevertheless go forward in August 2022. Super Ct. DN 788, 3/30/22 Hearing at 25:4-9.

16. Additionally, prior to filing these chapter 11 cases, the defendants in the Sandy Hook Lawsuits tried multiple times, all unsuccessfully, to remove the litigation to federal courts. *See, e.g.*, No.: 3:18-CV-1156 (JCH), DN 58, 11/5/18 Ruling Re: Mot. for Remand; No. 3:20-cv-1723 (JCH), DN 44, 3/5/21 Ruling Re: Mot. for Remand. After the first remand in Connecticut failed, the defendants attempted to have the presiding Judge removed for "appearance of judicial

¹⁰ Specifically, the Connecticut cases appear to name all three Debtors, but the Texas cases name only one Debtor, InfoW (which the Sandy Hook Plaintiffs have since nonsuited in the imminent damages trial). *See* Dkt. No. 6 at ¶ 12.

impropriety,” which also failed. *See* Dkt No. UWYCV186046438S, Order 421277 (Conn. Sup. Ct. November 4, 2021).

17. Immediately after these filings, the defendants again sought to remove the Sandy Hook Lawsuits. *See, e.g.*, Dkt. No. 1, Case No. 22-01022 (Bankr. W.D. Tex. April 18, 2022); Dkt. No. 1, Case No. 22-05004 (Bankr. D. Conn. April 18, 2022). The Sandy Hook Plaintiffs have filed motions seeking a remand of the lawsuits back to the state courts. *See, e.g.*, Dkt. No. 5 (Motion for Remand), Case No. 22-05004 (Bankr. Conn. April 21, 2022); Dkt. No. 7 (Motion for Abstention and Remand), Case No. 22-01023 (Bankr. W.D. Tex. April 26, 2022). Debtor InfoW has also filed a motion seeking to transfer the Texas cases out of the bankruptcy court for the Western District of Texas to the bankruptcy court for the Southern District of Texas. Dkt. No. 7, Case No. 22-01022 (Bankr. W.D. Tex. April 28, 2022).

18. Certain of the Debtors are also defendants in other pending litigation, some of which was the result of the Sandy Hook Lawsuits. Dkt. No. 6 at ¶ 12. As with the Sandy Hook Lawsuits, while only certain of the Debtors are defendants in such litigation, both Alex Jones and FSS are defendants in *every* case. *Id.* In one case, plaintiffs sued under the Texas Uniform Fraudulent Transfer Act alleging that Alex Jones diverted his assets to companies owned by insiders such as his parents and children. *Id.*

The Litigation Settlement Trust and “Plan Support Agreement”

19. As stated above, only three days before the Petition Date, the Debtors, Alex Jones, and FSS entered into the LST. *Id.* at ¶¶ 9, 16-17 (the LST is annexed to Dkt. No. 6 as Exhibit A). Although Alex Jones transferred his equity interests in the Debtors into the LST,

Alex Jones and FSS remain in charge of the income-producing entities of the Alex Jones Enterprise. *See id.* Moreover, the funding in the LST will come from Alex Jones and FSS, who initially funded \$725,000 into the trust to pay the administrative expenses of these cases and who propose to limit funding to \$10 million. *Id.* at ¶ 17; LST at § 1.3(b), (c); Dkt. No. 35 at ¶ 11. The LST prohibits the LST Trustees from causing the Debtors to file an involuntary petition against either Alex Jones or FSS. LST at § 1.3(a)(iii).

20. Simultaneously with the creation of the LST, the Debtors also entered into a PSA with Alex Jones and FSS that dictates the roadmap for the Debtors' cases. *Id.* at ¶ 17, Exhibit B (*Plan Support Agreement*), p. 1. Under the PSA, the parties agree to take various steps in the bankruptcy cases, including establishing a bar date for claims and a protocol for claims estimation and incorporating the settlement of the claims by the LST Trustee(s) in a subchapter V plan of reorganization. PSA at pp. 5-8. Under the PSA, any plan of reorganization in the Debtors' cases and all related documents must be approved by Alex Jones and FSS. *Id.* at p. 2 (definition of Approved Plan Documents).

21. The LST appears to contemplate that the Debtors' plan of reorganization will include a channeling injunction and releases for Alex Jones and FSS. *See* LST at § 10.1(c). If approved, such a channeling injunction would force the Sandy Hook Plaintiffs to seek payment from the LST for their claims rather than pursue them directly against Alex Jones and FSS, and such a release would bar the claimants from ever pursuing Alex Jones and FSS in the future.

22. Both the LST and PSA include secrecy provisions designed to limit the information that anyone, including the LST Trustees, can elicit from Alex Jones and FSS, including requirements for parties to agree to confidentiality agreements acceptable to Alex Jones and FSS before obtaining any information. *See* PSA at §§ 4(a)(iii), (b)(3); *see also* LST at

§§ 1.2(d), 2.2(a). The PSA further limits the financial information Alex Jones or FSS must provide to only that “reasonably needed to determine that [Alex Jones and FSS have] the ability to pay Allowed Litigation Settlement Trust Claims in full, in accordance with the Plan.” PSA at §§4 (a)(iii).

23. Unlike plan support agreements in other chapter 11 cases, no creditor participated in the drafting or negotiation of the LST or PSA in these cases. Instead, these are agreements among insiders.

Subchapter V

24. Debtors elected treatment under subchapter V, established by the Small Business Reorganization Act of 2019, Pub. L. No. 116-54 (“SBRA”), which establishes rules and procedures to lower the cost of and simplify the path through chapter 11 for certain small business enterprises. Subchapter V is wholly elective and its “provisions . . . effectively hybridized chapters 11 and 13. The beneficiaries are the truly ‘small’ debtors: individuals or mom-and-pop/small businesses.” Robert C. Meyer, *Small Business Reorganization Act Arrives This Month*, XXXIX ABI Journal 2, 8-9, 48-49, at 9, February 2020.

25. Eligibility for relief under subchapter V is governed by 11 U.S.C. § 1182(1). Under section 1182(1)(A), a debtor is currently eligible for subchapter V if (a) the debtor is engaged in *commercial* or *business* activities; (b) the debtor has aggregate noncontingent liquidated secured and unsecured debts of not more than \$3,024,725 (excluding debts owed to insiders or affiliates); and (c) at least 50% of the qualifying indebtedness arose from the commercial or business activities of the debtor.

LEGAL STANDARD

26. Section 1112(b)(1) of the Bankruptcy Code requires a court to dismiss a chapter 11 case upon finding that “cause” exists for such dismissal, unless the court instead determines that the appointment of a trustee or examiner is in the best interests of creditors. 11 U.S.C.

§ 1112(b)(1).¹¹ Section 1112(b)(1) provides in full:

Except as provided in paragraph (2) and subsection (c), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate.

11 U.S.C. § 1112(b)(1). Although section 1112(b)(4) of the Code contains a non-exclusive list of what constitutes “cause” for dismissal, the Fifth Circuit Court of Appeals has joined other circuits in holding that “cause” can include a showing that a debtor has not filed its bankruptcy case in good faith. *Little Creek Dev. Co. v. Commonwealth Mortg. Corp. (In re Little Creek Dev. Co.)*, 779 F.2d 1068, 1072-73 (5th Cir. 1986); *see also In re Humble Place Joint Venture*, 936 F.2d 814, 816-17 (5th Cir. 1991). As the Fifth Circuit has stated, this good faith requirement “protects the jurisdictional integrity of the bankruptcy courts by rendering their powerful equitable weapons . . . available only to those debtors and creditors with clean hands.” *Little*

¹¹ A debtor may also avoid dismissal if it proves unusual circumstances satisfying the criteria set forth in section 1112(b)(2). Section 1112(b)(2) provides, in full,

(2) The court may not convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter if the court finds and specifically identifies unusual circumstances establishing that converting or dismissing the case is not in the best interests of creditors and the estate, and the debtor or any other party in interest establishes that—

(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, or if such sections do not apply, within a reasonable period of time; and

(B) the grounds for converting or dismissing the case include an act or omission of the debtor other than under paragraph (4)(A)—

(i) for which there exists a reasonable justification for the act or omission; and

(ii) that will be cured within a reasonable period of time fixed by the court.

11 U.S.C. § 1112(b)(2).

Creek, 779 F.2d at 1072. It “prohibits a debtor’s misuse of the process where the overriding motive is to delay creditors without any possible benefit, or to achieve a reprehensible purpose through manipulation of the bankruptcy laws.” *Elmwood Dev Co. v. Gen. Elec. Pension Tr. (In re Elmwood Dev. Co.)*, 964 F.2d 508, 510 (5th Cir. 1992). And in *Humble Place*, 936 F.2d at 818, the Fifth Circuit affirmed dismissal where, among other things, the bankruptcy court found that the principal purpose of the chapter 11 filing was to “cleanse the partners of their liability,” reasoning that “[o]f course, the partners are not the Chapter 11 debtor, and their fate is irrelevant to the propriety of Humble Place’s filing. The court was correct to determine that this impermissible purpose cast doubt on the venture’s objective good faith.”

27. In *Little Creek*, the Fifth Circuit addressed how a reviewing court should approach the good faith inquiry—using an “on-the-spot evaluation of the debtor’s financial condition, motives, and the local financial realities. . . .predicated on certain recurring but non-exclusive patterns, and [] based on a conglomerate of factors rather than on any single datum.” 779 F.2d 1068 at 1072.¹² This is often referred to as a “totality of the circumstances” approach, and a similar approach is followed by most other circuits. See *In re 15375 Mem’l Corp. v. Bepco, L.P.*, 589 F.3d 605, 618, n.7 (3d Cir. 2009) (collecting cases); see also *In re Nat’l Rifle Ass’n of Amer.*, 628 B.R. 262, 280 (Bankr. N.D. Tex. 2021) (citation omitted).

28. The Third Circuit Court of Appeals has highlighted two inquiries that are particularly relevant to the question of good faith when considering the totality of circumstances

¹² In *Little Creek*, the court also described various factors that tend to be present in a bad faith filing, including that the debtor has one asset that is encumbered by a secured creditor’s liens, no employees, little or no cash flow or sources of income to fund a plan, few unsecured creditors, and is subject to a foreclosure action or a state-court litigation that has proceeded to a stand-still, and that there are allegations of wrongdoing by the debtor or its principals. *Id.* at 1072-73. Several of these factors are present in the Debtors’ cases. They have minimal assets, no employees, no cash flow, little or no income with which to fund a plan, few unsecured creditors beyond the litigation plaintiffs, are involved in a state court litigation in which they have already been found liable, and there are allegations of wrongdoing by their former 100% controlling interest holder.

of a debtor's filing: (1) whether the petition serves a valid bankruptcy purpose and (2) whether the petition is filed merely to obtain a tactical litigation advantage. *Off. Comm. of Unsecured Creditors v. Nucor Corp. (In re SGL Carbon Corp.)*, 200 F.3d 154, 165 (3d Cir. 1999). Other courts, including those within the Fifth Circuit, have adopted a similar inquiry when considering whether to dismiss a case as a bad faith filing. *See, e.g., Antelope Techs., Inc. v. Janis Lowe (In re Antelope Techs., Inc.)*, 431 Fed. Appx. 272, 275 (5th Cir. 2011) (affirming dismissal of a case for bad faith where the lower court concluded the debtors filed to gain an advantage in shareholder litigation); *Nat'l Rifle Ass'n*, 628 B.R. at 264, 270, 279-80 (finding cause to dismiss case for bad faith "because it was filed to gain an unfair litigation advantage and because it was filed to avoid a state regulatory scheme"); *In re Leslie*, No. 98-35386-H3-11, 1999 Bankr. LEXIS 2113, at *5 (Bankr. S.D. Tex. Feb. 11, 1999) (finding, in the totality of circumstances, that case was commenced for the primary purpose of gaining an unfair advantage in a litigation).

29. In the Fifth Circuit, the party seeking dismissal is required to make a *prima facie* showing that the debtor lacked good faith in filing its case, after which the burden shifts to the debtor to demonstrate good faith. *In re Mirant Corp.*, 2005 Bankr. LEXIS 1686, *27 n.20 (Bankr. N.D. Tex. Jan. 26, 2005); *In re Sherwood Enters., Inc.*, 112 B.R. 165, 170-71 (Bankr. S.D. Tex. 1989), *judgment entered*₂ (Bankr. S.D. Tex. Jan. 27, 1989). The moving party need only prove that the filing was objectively in bad faith, rather than showing that a debtor intended to misuse its bankruptcy filing. *See Elmwood Dev.*, 964 F.2d at 512 ("Because the good faith standard is an objective one, the court was not constrained to entertain and give dispositive weight to the subjective state of mind of Elmwood's manager.").

ARGUMENT

I. These Bankruptcy Cases Must be Dismissed for Cause.

30. The totality of facts and circumstances establishes cause for this Court to dismiss the Debtors' cases as a bad faith filing for at least two reasons: (1) the Debtors' cases do not serve a valid bankruptcy purpose; and (2) the Debtors filed these cases to gain a tactical litigation advantage.

31. Although the facts and indicia of bad faith supporting each of these grounds for cause have already been established in the public filings before this Court, the U.S. Trustee is also prepared to propound discovery, if necessary, to further adduce evidence supporting each ground.

A. These Cases Do Not Serve a Valid Bankruptcy Purpose.

32. The purpose of bankruptcy is to give "to the honest but unfortunate debtor . . . a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt." *Loc. Loan Co. v. Hunt*, 292 U.S. 234, 244 (1934); *see* Report of the Committee on the Judiciary, House of Representatives to Accompany H.R. 8200, H.R. Rep. No. 595 (1977), *reprinted in* 1978 U.S.C.C.A.N. 6179 ("The purpose of a business reorganization case, unlike a liquidation case, is to restructure a business's finances so that it may continue to operate, provide its employees with jobs, pay its creditors, and produce a return for its stockholders."). Chapter 11 furthers this purpose in two complementary ways: (1) "preserving going concerns" and (2) "maximizing property available to satisfy creditors." *Bank of Am. Nat'l Trust & Sav. Ass'n. v. 203 N. LaSalle St. P'Ship*, 526 U.S. 434, 452 (1999).¹³

¹³ Other objectives of the Bankruptcy Code include "avoidance of the consequences of economic dismemberment and liquidation, and the preservation of ongoing values in a manner which does equity and is fair to rights and interests of the parties affected." *SGL Carbon*, 200 F.3d at 161 (citing *In re Victory Constr. Co., Inc.*, 9 B.R. 549, 558 (Bankr. C.D. Cal. 1981), *order stayed*, *Hadley v. Victory Constr. Co., Inc. (In re Victory Constr. Co., Inc.)*, 9 B.R. 570 (Bankr. C.D. Cal. 1981), *order vacated*, 37 B.R. 222 (1984)).

33. In furthering these objectives, chapter 11 vests a debtor with considerable protections—among them the automatic stay and the discharge of debts. Subchapter V adds additional debtor protections—no creditors’ committee unless the Court orders one for cause, no requirement for a disclosure statement, the debtor’s exclusive right to file a plan of reorganization, and the debtor’s ability to “cram down” confirmation of a plan without an impaired accepting creditor class—that “can impose significant hardship on creditors.” *See SGL Carbon*, 200 F.3d at 165. Under appropriate circumstances, “the exercise of those powers is justified. “But this is not so when a petitioner’s aims lie outside those of the Bankruptcy Code.” *Id.* at 166 (emphasis added). As the Fifth Circuit (affirmed by the Supreme Court) advised in *Timbers of Inwood Forest*, “when there is no reasonable likelihood that the statutory objective of reorganization can be realized . . . then the automatic stay and other statutory provisions designed to accomplish the reorganization objective become destructive of the legitimate rights and interests of creditors, the intended beneficiaries.” *United Savs. Assoc. of Texas v. Timbers of Inwood Forest Assocs., Ltd. (In re Timbers of Inwood Forest Assocs., Ltd.)*, 808 F.2d 363, 373 (5th Cir. 1987) (en banc), *aff’d*, 484 U.S. 365 (1988).

i. *The Debtors have no Reorganizational Purpose.*

34. These cases are demonstrably not about reorganizing, rehabilitating, or granting a fresh start to an honest, unfortunate debtor. The Debtors’ bankruptcy filings do not serve any recognized objective of the Bankruptcy Code. These Debtors have no businesses and no purpose to reorganize.

35. As the Debtors’ proposed CRO attests, these Debtors have “no purpose other than to hold assets which may be used by other entities,” but these assets “do not generate any income

for them.”¹⁴ Dkt. No. 1 at 10-11, ¶ 8. The Debtors do not have bank accounts, financial statements, books of account, or income tax returns. *Id.* There is no debt to restructure, no liens being primed, no cash collateral required, and no post-petition financing being granted because these Debtors “undertake no business activities, they do not sell, rent or lease to others anything.” *Id.* But these Debtors were, until three days before the filings, members of a larger enterprise controlled by Alex Jones.¹⁵ Dkt. No. 6 at ¶¶ 8-9. Based on the extremely limited information disclosed about the rest of the Alex Jones Enterprise to date, all the assets and businesses of that enterprise are with Alex Jones, FSS, and other, non-debtor companies, whose finances are not transparent in these cases. *Id.*; *see also* Tr. April 22, 2022 at 55.

36. On the contrary, these filings are an attempt to subvert the purpose of the Bankruptcy Code and the subchapter V provisions designed to assist struggling small businesses to reorganize. Alex Jones and FSS hand-picked these three holding companies for bankruptcy as part of a scheme engineered solely to limit their own legal liability, to deny parties in interest a full accounting of their assets, and to deny individuals their day in court and imminent recovery for established liability. Neither the Debtors nor their creditors benefit from these bankruptcy cases. The only ones benefiting are Alex Jones and FSS, who seek to reap the benefits of chapter 11 without any of its burdens.

¹⁴ One debtor, IWHealth, apparently has rights to a royalty payment of \$38,000 previously diverted to Alex Jones. The newly hired CRO discovered this debtor asset after some due diligence before this bankruptcy filing and requested that the royalty be paid to the rightful entity. *See* Tr. April 22, 2022 at 43, 48-9.

¹⁵ Equitable principles relating to insider transactions support dismissal of these cases given Alex Jones’s control of all parties and engineering of the LST and PSA prior to the filing of these cases. *See Pepper v. Litton*, 308 U.S. 295, 306-07 (1939) (“The essence of the test [for good faith of an insider transaction] is whether or not under all the circumstances the transaction carries the earmarks of an arm’s length bargain. If it does not, equity will set it aside.”).

ii. ***The Insider-Negotiated PSA and LST Evidence that Debtors Are Attempting to Abuse the Bankruptcy Code to Shield Non-Debtors from Disclosure and Legal Liability and to Minimize Recovery to Creditors.***

37. Although the Debtors claim they filed these cases because they were concerned that “efforts to collect on a judgment of the Texas actions would result in leaving nothing for the Connecticut Sandy Hook Plaintiffs or other creditors” and further claim they intend to pay all litigation claims “in full,” all evidence suggests that these filings were *not* a benevolent effort by the Debtors to ensure a fair distribution to all creditors. *See* Dkt. No. 6 at ¶¶ 15, 16. Because the members of the Alex Jones Enterprise who hold the assets and are themselves defendants and liable to the Sandy Hook Plaintiffs—Alex Jones and FSS—did not file for relief, there is no transparency into their assets or any statutory mechanism for distributing those assets. Instead, we start this case with the LST and PSA—entered into prior to bankruptcy between affiliated entities, without any creditor support—which cloak Alex Jones’s and FSS’s books and records in secrecy by imposing confidentiality restrictions on those seeking access and further provide that parties can only obtain access to information reasonably needed to determine whether Alex Jones and FSS can pay estimated, not actual, claim amounts.¹⁶ *See* PSA at §§4(a)(iii), (b)(3); *see also* LST at §§1.2(d), 2.2(a).

38. But the PSA sets a course for the Debtors whereby claims will not be paid in full by any ordinary understanding of that term. Instead, under the PSA, the Debtors must quickly seek approval for a litigation claims bar date and then a claims estimation process, which allows them to cap what can be paid to creditors from whatever assets Alex Jones and FSS choose to

¹⁶ Given this structure, no party in interest can determine whether Alex Jones and FSS actually have the funds to satisfy all of the claims against them (in which case, they have no reason to be concerned about favoring certain creditors over others) or whether they do not have sufficient funds (in which case, it is unclear why they would care how these assets are divided).

contribute in a subchapter V plan of reorganization. *See* PSA at 5-8. Based on the information provided to date, even were Debtors to succeed in having the claims estimated, it is not clear how any plan for the Debtors could be feasibly confirmed because the Debtors have no assets to contribute to a plan, and the PSA provides only that Alex Jones and FSS will contribute money until they decide not to. *See* PSA at §4(b).

39. Moreover, section 502(c) of the Bankruptcy Code only requires a bankruptcy court to estimate a contingent or unliquidated claim where failure to do so “would unduly delay the administration of the case.” *See* 11 U.S.C. § 502(c); *O’Neill v. Continental Airlines, Inc. (In re Continental Airlines, Inc.)*, 981 F.2d 1450, 1461 (5th Cir.1993) (“In order for the estimation process of § 502(c) to apply, . . . fixing the claim must entail undue delay in the administration of justice.”); *In re Dow Corning Corp.*, 211 B.R. 545, 563 (Bankr. E.D. Mich. 1997) (“[E]stimation does not become mandatory merely because liquidation may take longer and thereby delay administration of the case. . . .bankruptcy law’s general rule is to liquidate, not to estimate. For estimation to be mandatory, then, the delay associated with liquidation must be ‘undue.’”). To determine whether liquidating a claim would unduly delay the case and should instead be estimated, a court should “perform a kind of cost-benefit analysis by considering the time, costs and benefits associated with both estimation and liquidation.” *Id.* at 563.

40. Here, the Debtors have attempted to manufacture exigency by electing subchapter V treatment despite not having any operations or assets. Thus, they cannot establish that any delay caused by full liquidation of the claims would be “undue.” *See Id.* at 563, 566-67 (denying request for estimation where court determined that the strategy behind the request was ultimately to limit the amount the debtor would have to pay and the time delay was “highly speculative” and there was no guarantee estimation would be faster.). Estimation is a “second-best”

procedure in any circumstance, and it is hard to see how there is any benefit to estimating the Sandy Hook Plaintiffs' claims rather than allowing the imminent trials to proceed to full, actual judgment. *See, e.g., Apex Oil Co. v. Stinnes InterOil, Inc. (In re Apex Oil Co.)*, 107 B.R. 189, 193 (Bankr. E.D. Mo. 1989) (finding no undue delay where trial in was "imminent"); *see also In re N. Am. Health Care, Inc.*, 544 B.R. 684, 689 (Bankr. C.D. Cal. 2016) (limiting the claims to be estimated and stating "[b]ecause estimation is a second-best method . . . a bankruptcy court ought not to expand the estimation's scope beyond this limited extent absent compelling reasons to do so.").¹⁷

41. Further, the handwriting is on the wall that Alex Jones and FSS will seek orders of this Court staying further actions against them in the Sandy Hook Lawsuits (which they have already sought to remove based on these cases) and that they and the Debtors will ultimately seek involuntary non-consensual releases, or their functional equivalent, of the plaintiffs' tort claims against Jones, FSS, and other related, non-debtor parties. The LST itself suggests that the Debtors' forthcoming plan of reorganization will involve a channeling injunction and, ultimately, some type of release for Alex Jones and FSS. *See* LST at 2; § 10.1(c). The liabilities facing Alex Jones arise out of allegations of his intentional tortious conduct that could likely not be discharged in his own bankruptcy under section 523 of the Code. 11 U.S.C. § 523(a)(6). Thus,

¹⁷ Moreover, the claims in the Sandy Hook Lawsuits are personal injury claims and thus a trial on the claims is not a core proceeding in the Debtors' cases and cannot be adjudicated by this Court. *See* 28 U.S.C. § 157(b)(2)(B) and (b)(5). In addition, bankruptcy courts are constitutionally prohibited from holding jury trials on non-core claims and may not hold jury trials on core claims without the consent of both parties. *See* 28 U.S.C. § 157(e); *Orion Pictures Corp. v. Showtime Networks Inc. (In re Orion Pictures Corp.)*, 4 F.3d 1095, 1101 (2nd Cir. 1993). Finally, the Debtors' proposal to impose on the plaintiffs an expedited bar date, an estimation process, and a capped distribution via a settlement trust through an artificially staged and orchestrated bankruptcy may also raise concerns about whether they are receiving the due process owed to them under the Constitution.

any such outcome would give him more from the bankruptcy of three non-operating entities in his enterprise than he could obtain in his own personal bankruptcy case.

42. Finally, the creditors themselves are plainly not asking for this relief. No creditor was involved in negotiating the LST or the PSA prior to the filings. And the main creditors in these cases, the Sandy Hook Plaintiffs, have rejected this structure.

iii. *The Lawsuits that Allegedly Precipitated these Filings Primarily Concern Non-Debtors.*

43. To add to the Debtors' lack of an ongoing concern or valuable property that this case might seek to preserve or to maximize, the proposed CRO also admits that the Debtors "have no debt or other liabilities other than those related to pending or potential litigation." Dkt. No. 1 at 10-11, ¶ 8. This pending litigation, which the Debtors claim caused a "classic 'race to the courthouse'" precipitating this filing, appears to comprise fewer than ten lawsuits, some of which have been ongoing for many years. Dkt. No. 6 at ¶¶ 12, 14. The true catalysts that prompted the filing of these cases are the Sandy Hook Lawsuits pending in Texas and Connecticut, each of which were scheduled for a jury trial on damages before the filings (the first beginning April 25, 2022).¹⁸ *Id.*; Dkt. No. 5, Case No. 22-05004 (Bankr. D. Conn. April 18, 2022).

44. But these lawsuits do not arise from Debtors' conduct. Rather, the lawsuits arise from the allegedly tortious, intentional conduct of Alex Jones and FSS (through its employees),

¹⁸ Counsel for plaintiffs has advised that the other Sandy Hook Lawsuits in Texas are scheduled for trial in June and August 2022. *Tr.* April 22, 2022 at 70. The Connecticut Sandy Hook Lawsuit is scheduled for trial in August 2022. Dkt. No. 1, Case No. 22-05004 (Bankr. D. Conn. April 18, 2022).

who did not file for bankruptcy in this or any other court. In fact, the Debtors are not co-defendants in every lawsuit involving the Alex Jones Enterprise.¹⁹

45. This all begs the same question—the obvious question since the day these cases were filed—why are these three Debtors in bankruptcy when Alex Jones and FSS are not? At the first hearing in these cases, the Debtors’ CRO suggested that Alex Jones was concerned about reputational damage to himself and the possible loss of vendors to FSS if they filed for bankruptcy. *See* Tr. April 22, 2022 at 45, 55. But the main vendor to the Alex Jones Enterprise, PQPR Holdings, is simply another member of that enterprise, controlled by Alex Jones insiders. Dkt. No. 17-6. Surely Alex Jones wasn’t concerned he would refuse to deal with himself. In any event, it is clear that by not seeking bankruptcy relief themselves, Alex Jones and FSS do not have to disclose their finances.

iv. *The Debtors Are Attempting to Manipulate the Provisions of Subchapter V.*

46. The Debtors assert that they are precisely the types of enterprises that Congress had in mind when it passed SBRA, enacting subchapter V of chapter 11. Nothing in the language of subchapter V or in its legislative history validates this position. The Debtors, who are incapable of funding a plan themselves, attempt to subvert a statutory scheme that was designed to aid well-intentioned small businesses in their efforts to reorganize their financial

¹⁹ While all three debtors appear to be co-defendants in the Connecticut Sandy Hook Lawsuit, only one debtor, InfoW, is a co-defendant in the Texas Sandy Hook Lawsuit that was scheduled for jury selection April 25, 2022. Nevertheless, when the plaintiffs in one such case filed to nonsuit that debtor and proceed against Alex Jones and FSS, defendants continued their efforts to remove the case to federal court based on the bankruptcy of the non-suited defendant. *See* Chuck Lindell, *Judge Reluctantly Delays Alex Jones Trial in Sandy Hook Case, Criticizes His Lawyers*, Austin American Stateman (April 20, 2022, updated April 21, 2022, 8:21AM), <https://www.statesman.com/story/news/2022/04/20/austin-tx-judge-delays-alex-jones-sandy-hook-trial/7382689001/>.

affairs into an obvious scheme to protect Alex Jones and FSS from liability in the Sandy Hook Lawsuits. The bankruptcy process should not be used to further this abusive scheme.

47. The elements of this scheme are not difficult to see. The three non-operating Debtors filed in an attempt to satisfy eligibility for subchapter V to benefit all of the non-debtor defendants.

48. Even though courts in Texas and Connecticut had entered default judgments against Debtors in favor of Sandy Hook Plaintiffs due to Jones's pattern of misconduct in those cases, the Debtors assert that their indebtedness is all "unliquidated." Why? Because unliquidated debts are not counted toward establishing if a debtor and its affiliated debtors have too much debt in the aggregate to avail themselves of subchapter V. 11 U.S.C. § 1182(1). How? The Debtors—some of which aren't defendants in every action against Alex Jones and FSS—filed to stay the damages phases of the Sandy Hook Lawsuits that would establish the amounts that the Debtors, Alex Jones, and FSS owe the plaintiffs for their tortious conduct. Although the Debtors claim that they are trying to avoid a "race to the courthouse," the only race that has occurred here is the Debtors' race to this courthouse, seeking the protection of this Court to avoid the scheduled state court trials on damages. Little doubt exists that the total damage award against the Debtors, Alex Jones, FSS, and other non-debtor solvent entities of the Alex Jones Enterprise would exceed the debt limit currently in place for subchapter V.

49. It is also not difficult to see what led the Debtors to choose subchapter V for this scheme. Subchapter V has features that, when manipulated in the manner proposed by the Debtors, can transform it from a tool to be used by earnest small operating entities to rehabilitate their business and financial affairs to a weapon used against innocent creditors. For example, a subchapter V debtor must file a plan not later than 90 days after the date of the order for relief.

Although at first blush this requirement might seem burdensome to a debtor, in these cases, it appears the Debtors intend to rely on the 90-day plan deadline to argue that the Court must quickly estimate the Sandy Hook Plaintiffs' claims to avoid "undue delay" in the administration of these cases. *See* 11 U.S.C. § 502(c)(1); *see supra*, ¶¶ 38-9.

50. As another example, in a subchapter V case, no committee is appointed unless the Court determines there is cause for the appointment of a creditors' committee and orders the appointment of one. 11 U.S.C. § 1102(a)(3). Relatedly, confirmation of a non-consensual subchapter V plan under section 1191 of the Code does not require that any class of impaired non-insider claims affirmatively vote to accept the plan. Instead, subchapter V enables a court to confirm a plan over the dissenting votes of unsecured creditor classes so long as the plan provides that three to five years of the debtor's projected disposable income will be paid under the plan. 11 U.S.C. § 1191(c)(2). Thus, the Debtors can seek to "cram down" their plan without regard to whether a single Sandy Hook Plaintiff votes in favor of that plan. And because the Debtors have little or no income, this would not be much of a burden for Debtors nor much of a benefit for creditors. Although Alex Jones and FSS have agreed to advance some amount to the Debtors for plan payments, there is no transparency to how those amounts were determined—and they were not determined by negotiation with creditors. Further, because Alex Jones and FSS are not themselves debtors, this Court will not have authority to require them to satisfy the best interests of creditors test—showing that the plan yields more value for creditors than a chapter 7 liquidation—or require that all of Alex Jones's and FSS's projected disposable income for three to five years will be paid to Debtors for distribution to their joint creditors.

51. These cases thus represent an imaginative attempt to misuse subchapter V of chapter 11 to protect non-debtors whose conduct hardly shows them to be the honest but unfortunate debtors entitled to bankruptcy relief even had they themselves filed.

v. *For the Reasons Set Forth in Subsections i through iv, The Debtors' Bankruptcy Cases Must be Dismissed.*

52. Given the totality of circumstances supporting the Debtors' petitions, as set forth in subsections *i* through *iv* above, these Debtors do not belong in bankruptcy and their cases must be dismissed. "According to the Fifth Circuit, '[g]ood faith implies an honest intent and genuine desire on the part of the petitioner to use the statutory process to effect a plan of reorganization and not merely as a device to serve some sinister or unworthy purpose.'" *In re Cedar Short Resort, Inc.*, 235 F.3d 375, 379 (8th Cir. 2000) (quoting *In re Metro. Realty Corp.*, 433 F.2d 676, 678 (5th Cir. 1970)). "Congress has never intended that bankruptcy be a refuge for the irresponsible, unscrupulous or cunning individual." *In re Rognstad*, 121 B.R. 45, 50 (Bankr. D. Haw. 1990). And courts should apply particular scrutiny to cases involving "asset-culled entities where 'debtors have elected not to submit the actual entities in interest to the jurisdiction of the court, thereby isolating the entities in interest from the scrutiny and control of the court during proceedings.'" *In re Eden Assocs.*, 13 B.R. 578, 58485 (Bankr. S.D.N.Y. 1981) (dismissing case where court determined, among other things, "that this debtor was formed, if at all, and the property purportedly conveyed to it, to shield the assets of Cook's more affluent companies from the jurisdiction of the Bankruptcy Court") (quoting *In re Dutch Flat Inv.*, 6 B.R. 470, 471 (Bankr. N.D. Cal. 1980)) (emphasis added).

53. Alex Jones and FSS should not be permitted to use chapter 11 as a means to shield their assets from the plaintiffs. "Chapter 11 was not designed for the purpose of protecting assets and interests of non-debtor parties under the guise of a legitimate plan of

reorganization.” *In re Davis Heritage GP Holdings, LLC*, 443 B.R. 448, 462 (Bankr. N.D. Fla. 2011). Because these cases were not filed for a valid bankruptcy purpose, they must be dismissed.

B. The Debtors Filed these Cases to Gain a Litigation Advantage for Non-Debtors Alex Jones and FSS.

54. The timing of these filings—only eight days before the commencement of a jury trial against the defendants in one of the Texas Sandy Hook Lawsuits—together with the pattern of behavior exhibited by the defendants before the courts overseeing the Sandy Hook Lawsuits, reveals that the Debtors’ bankruptcy petitions were filed as a litigation tactic to obstruct and delay an imminent trial establishing damages against defendants, including non-debtors Alex Jones and FSS, in state court litigation.

55. “[B]ecause filing a Chapter 11 petition merely to obtain tactical litigation advantage is not within the legitimate scope of bankruptcy laws, . . . courts have typically dismissed chapter 11 petitions under these circumstances. . . .” *SGL Carbon*, 200 F.3d at 165 (citations omitted); *see also Antelope Techs.*, 431 Fed. Appx. at 275 (affirming dismissal of a case for bad faith where the lower court concluded the debtors filed to gain an advantage in shareholder litigation); *Leslie*, 1999 Bankr. LEXIS 2113, at *5 (finding, in the totality of circumstances, that case was commenced for the primary purpose of gaining an unfair advantage in a litigation). Further, “[w]here the timing of the filing of a Chapter 11 petition is such that there can be no doubt that the primary, if not sole, purpose of the filing was a litigation tactic, the petition may be dismissed as not being in good faith.” *15375 Memorial Corp.*, 589 F.3d at 625-26 (citing *SGL Carbon*, 200 F.3d at 165). For example, in *15375 Memorial Corp.*, the Third Circuit found that given a mix of facts and “the Debtors’ sudden decision to file for bankruptcy

despite their [sic] having been dormant and without employees or offices for several years,” the Court “[could not] escape the conclusion that the filings were a litigation tactic.” *Id.* at 625-26. And in *Cedar Shore*, the Eighth Circuit affirmed dismissal of a case where there existed “strong evidence to support the finding that [the debtor] did not file bankruptcy to effectuate a valid reorganization, but rather to prevent the [the plaintiffs] from pursuing their claims in state court.” 235 F.3d at 380–81.

56. Here, the Debtors have all but admitted that they filed these petitions solely to stop the Sandy Hook Lawsuits from proceeding in state court and to resolve them in the way the Alex Jones Enterprise—but not the Sandy Hook Plaintiffs—sees fit. *See* Dkt. No. 6 at ¶¶ 15, 16; PSA at 5-8. Based on the information disclosed thus far, the Debtors have no or virtually no creditors beyond the litigation plaintiffs. *See, e.g.*, Dkt. No. 1 at ps. 6-7. As discussed above, the main lawsuits the Debtors identify as precipitating these filings are the Sandy Hook Lawsuits pending in Texas and Connecticut. *See* Dkt. No. 6 at ¶¶ 12, 15. Although the Sandy Hook Lawsuits are in different venues, they share many similarities, and these cases thus bear the hallmarks of a classic two-party dispute best left to resolution in the state court. *See Little Creek* at 1072-73; *Sherwood Enters.*, 112 B.R. at 170. And the history of these lawsuits evidences a pattern of behavior—of repeated obstruction and delay tactics—that is simply being repeated and moved to a different forum by these bankruptcy filings.

57. As the Debtors admit in their pleadings, the defendants’ sanctionable behavior over a period of at least four years led the courts in both Texas and Connecticut to enter default judgments against them. *See* Dkt. No. 6 at ¶ 13; *see also Lafferty v. Jones*, 336 Conn. 332, 374, (2020), *cert. denied*, 141 S. Ct. 2467 (2021) (Connecticut Superior Court quoting the trial court stating that “the discovery in this case has been marked with obfuscation and delay on the part of

the defendants”). When the defendants appealed one such sanction, the Connecticut Supreme Court affirmed that the defendants had “willfully disregarded the court’s discovery orders.” *Lafferty*, 336 Conn. at 377, 79 (noting trial court’s consideration of this willfulness “along with the defendants’ harassing and intimidating speech toward the plaintiffs’ counsel, which together created a whole spectrum of bad faith litigation misconduct.”). Defendants have also tried multiple times to remove the Sandy Hook Lawsuits to federal court—even after the first gambit had been rejected and the suit remanded. *See, e.g.*, No.: 3:18-CV-1156 (JCH), DN 58, 11/5/18 Ruling Re: Mot. for Remand; No. 3:20-cv-1723 (JCH), DN 44, 3/5/21 Ruling Re: Mot. for Remand. Unsurprisingly, immediately upon the Debtors’ bankruptcy filing, the defendants again sought to remove the lawsuits. *See, e.g.*, Dkt. No. 1, Case No. 22-01022 (Bankr. W.D. Tex. April 18, 2022); Dkt. No. 1, Case No. 22-05004 (Bankr. D. Conn. April 18, 2022). These bankruptcy filings are merely the latest in a long line of efforts by Alex Jones and FSS to obstruct and hinder the courts’ ability to liquidate damages in Texas and Connecticut.

58. In addition, the *timing* of these filings also unquestionably supports a finding that their purpose was as a litigation tactic against the Sandy Hook Plaintiffs. After all the defendants’ delay and obstruction, the first trial on damages was scheduled to begin with jury selection on April 25, 2022. *Id.* at 14. These cases were filed *only eight days before*. The cases were also filed only weeks after Alex Jones repeatedly refused to attend his scheduled deposition in Connecticut, after which the court again sanctioned him and advised that the trial in that case would nevertheless go forward in August 2022. 20 Super Ct. DN 788, 3/30/22 Hearing at 25:4-9. And while only one debtor, InfoW, is a co-defendant in Texas, when the Sandy Hook Plaintiffs filed to nonsuit InfoW and proceed solely against Alex Jones and FSS, InfoW

²⁰ After the imposition of escalating sanctions, Jones ultimately appeared for his deposition.

nonetheless continued its efforts to remove the cases to a federal court and has now sought to transfer venue of those cases. *See* Dkt. No. 1, Case No. 22-01022 (Bankr. W.D. Tex. April 18, 2022); Dkt. No. 7, Case No. 22-01022 (Bankr. W.D. Tex. April 28, 2022); Chuck Lindell, *Judge Reluctantly Delays Alex Jones Trial in Sandy Hook Case, Criticizes His Lawyers*, Austin American Stateman (April 20, 2022, updated April 21, 2022, 8:21AM), <https://www.statesman.com/story/news/2022/04/20/austin-tx-judge-delays-alex-jones-sandy-hook-trial/7382689001/>.

59. Perhaps the best evidence that this filing is for a litigation advantage comes from Mr. Jones’s lawyer himself as reported by the Wall Street Journal:

Mr. Jones’s lawyer, Norm Pattis, said Wednesday that they have tried to settle the case “on reasonable terms” and that Sandy Hook families “persist in trying to destroy Alex and his companies.”

“We’re turning to the bankruptcy courts to compel the plaintiffs to estimate the value of their claims in open court by discernible evidentiary standards,” Mr. Pattis said. “The plaintiffs have turned this litigation into a macabre morality play and have refused to negotiate in good faith. We hope they will show respect to the federal courts.”

Infowars Bankruptcy Delays Upcoming Sandy Hook Trial, Wall Street Journal (April 20, 2022) (emphasis added) available at <https://www.wsj.com/articles/infowars-bankruptcy-delays-upcoming-sandy-hook-trial-11650494400?mode=list>

60. All the evidence suggests that Alex Jones and FSS intended and still intend to use this bankruptcy to accomplish their long-sought goal of having some other court besides those in Texas and Connecticut resolve the Sandy Hook Lawsuits.²¹ But they don’t want just any court.

²¹ Immediately prior to the filing, the Debtors obtained leases for the Debtor entities in Victoria, Texas, despite their being previously located at all times in Austin, Texas (the site of the rest of the Alex Jones Enterprise as well as the Texas Sandy Hook Lawsuits). Tr. April 22, 2022 at 52-3. For purposes of venue under 28 U.S.C. § 1408, at least one bankruptcy court has held that the “domicile” of an entity is its state of incorporation, and venue in any district in the state is proper for that entity. *See In re ERG Intermediate Holdings, LLC*, No. 15-31858-

They now seek to abuse the bankruptcy system not only to resolve these lawsuits against all of the defendants—Debtors and non-debtors alike—but also to minimize the possible recovery the plaintiffs can receive. *See supra*, ¶¶ 34-51. Because the Debtors’ bankruptcy petitions were filed as a litigation tactic to thwart the Sandy Hook Plaintiffs from pursuing their claims in state court, these cases must be dismissed.

II. Dismissal is in the Best Interests of Creditors and the Estates.

61. Once cause is established, “a bankruptcy court *shall*”—must—convert²² or dismiss the case unless the court determines that appointing a section 1104(a) trustee or examiner is in the best interests of the creditors and the estate” or the debtor establishes unusual circumstances to avoid dismissal. 11 U.S.C. § 1112(b)(1), (2) (emphasis added).²³

62. Here, dismissal is in the best interests of the Debtors’ creditors, all or almost all of whom are plaintiffs in lawsuits against the Alex Jones Enterprise.²⁴ These lawsuits are already

HDH11, 2015 WL 6521607, at *4 (Bankr. N.D. Tex. Oct. 27, 2015) (“[A]n entity that is formed under the laws of a given state is domiciled in the entire state for purposes of section 1408(1) and may file a case under the Bankruptcy Code in any District in that state). Nevertheless, the timing of the effort to obtain these leases and obtaining the leases themselves—suggesting that Debtors were seeking a bankruptcy forum outside of Austin, Texas, the site of the Texas Sandy Hook Lawsuits—is evidence of Jones’s intention to manipulate every aspect of this case for his benefit and further indicia of the bad faith of the Debtors leading up to these cases. As the CRO testified at the First Day hearing, the Victoria office is empty and unused by Debtors.

²² While the U.S. Trustee seeks dismissal as the appropriate remedy in these cases, the Court may also choose to convert these cases to chapter 7. If converted, a chapter 7 trustee may be able to find and monetize assets (as the CRO has in discovering the royalty payment) and initiate actions to avoid fraudulent transfers, among other things.

²³ The Debtors have the burden to prove unusual circumstances. The U.S. Trustee is not aware of any facts that would support such a finding here but reserves his right to oppose any such showing at an appropriate time.

²⁴ Because the Debtors are the only members of the Alex Jones Enterprise who filed for bankruptcy, there is no benefit to be obtained by the appointment of an examiner that would not be better served by dismissing the case. Moreover, given that these cases can only survive by the funding of Alex Jones and FSS and the pattern of behavior

being administered in state court, the presiding courts have already found the defendants liable, and all that remains is a trial on damages. As of the filings, jury selection in one Texas case was only days away, and jury selection in Connecticut will follow in August. Dismissal would ensure not only that the families can see these proceedings through in the venue they chose before a jury of their peers, but also that any claimant who secures a judgment against any member of the Alex Jones Enterprise can enforce that judgment on assets held by those companies without being subject to the roadblocks and limitations the Debtors, Alex Jones, and FSS have attempted to place before them with the PSA, LST, and these filings. And as evidenced by their own pending motions, the Sandy Hook Plaintiffs—as creditors in these cases—believe their interests would be best served by dismissal of these cases.

RESERVATION OF RIGHTS

63. The U.S. Trustee reserves his rights to supplement this motion further should it become appropriate at any time in the future.

CONCLUSION

WHEREFORE the U.S. Trustee respectfully requests that this Court grant this Motion and grant such other and further relief as it may deem just and proper.

Dated: April 29, 2022

Respectfully Submitted,

KEVIN M. EPSTEIN
UNITED STATES TRUSTEE

they have displayed in the state court litigations in Texas and Connecticut, it seems unlikely they would agree to continue such funding were an examiner appointed.

Section 1104, which governs the appointment of a trustee in a typical chapter 11 case, does not apply in subchapter V cases.

By: /s/Jayson B. Ruff
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic means via ECF transmission to all Pacer System participants in these bankruptcy cases, on the 29th day of April, 2022.

/s/ Jayson B. Ruff
Jayson B. Ruff

Exhibit A

Transcript from April 22, 2022 Hearing

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

IN FOW, LLC,
Debtor.
-----)

) CASE NO: 22-60020-CML
)
) Victoria, Texas
)
) Friday, April 22, 2022
)
) 9:00 a.m. - 10:49 a.m.

IWHEALTH, LLC,
Debtor.
-----)

) CASE NO: 22-60021-CML
)
)
)
)
)

TRIAL

BEFORE THE HONORABLE CHRISTOPHER M. LOPEZ
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

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25

1 Also Present: MARC SCHWARTZ, CRO
2 RICHARD SCHMIDT

3 Court Reporter/Deputy: Kimberly Picota

4 Transcribed by: Veritext Legal Solutions
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6 Mineola, NY 11501
7 Tel: 800-727-6396

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10 Transcript produced by transcription service.

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VICTORIA, TEXAS; FRIDAY, APRIL 22, 2022 9:00 AM

(Call to Order)

THE COURT: Good morning, everyone. This is Judge Lopez. Today is April 22nd. I'm going to call the nine a.m. case, which is essentially first-day hearings in InfoW LLC, IWL -- it should be IWHealth LLC, and Prison Planet TV LLC.

There are a number of folks on the line, and I'm going to try to keep the line unmuted, just see how that goes. We have a feature where I can mute the entire line, and I'm going to try to avoid that. But if I end up doing it, I will give everyone plenty of notice and you will have to hit five-star if you wish to be heard.

I'm going to just ask everyone to please put your phone on mute right now until your case is called. And I hear a lot of back noise. I'm just going to turn the feature on. So I'm asking everyone just please take a look at your phone and please keep it on mute. When it is time to speak, I will call on you and you are able to speak. Let's see how this goes.

Let me start off by taking appearances. And why don't I start in the courtroom. Who is here on behalf of the Debtors?

MR. LEE: Good morning, Your Honor. Kyung Lee, K-

1 y-u-n-g, L-e-e, on behalf of the three debtors. And I would
2 like to introduce some of the players on my side that are
3 helping me with this project, the first one being RJ
4 Shannon.

5 Can you stand up, RJ?

6 MR. SHANNON: Good morning.

7 THE COURT: Good morning.

8 MR. LEE: That's my very bright, smart associate.
9 Younger than I am, so he is able to work a lot harder than I
10 am.

11 The second party that's also helping me is Adam
12 Rodriguez, who is my paralegal, who has been working on this
13 case. As you all know, he (indiscernible) get done by one
14 person (indiscernible) who made a team that worked with me.
15 So those two would be an integral part of the team.

16 And the third party I'd like to introduce today is
17 Mr. Marc Schwartz,. He's sitting with me at counsel's
18 table. He is chief restructuring officer of the three
19 debtors, Your Honor.

20 MR. SCHWARTZ: Good morning.

21 THE COURT: Okay. Who wants to go next?

22 MR. RUFF: Good morning, Your Honor. Jason Ruff
23 for the U.S. Trustee's office. And today with me is Ha
24 Nguyen.

25 THE COURT: Good morning to both of you. And I

1 think it's the first time I've actually seen you in person
2 as opposed to on the screen. Good morning.

3 MR. OKIN: Good morning, Your Honor. Matthew
4 Okin, O-k-i-n, and David Curry. We are here on behalf of
5 the proposed litigation settlement trustees, Russell Nelms
6 and Richard Schmidt. I believe that Mr. Schmidt and Mr.
7 Nelms are on the call.

8 THE COURT: I see them on video. And good morning
9 to you, sir. Good morning to you, Mr. Schmidt and Mr.
10 Nelms.

11 MR. BEATTY: Yes, Your Honor. Max Beatty and
12 Cliff Walston. We are here on behalf of creditors, Heslin,
13 Lewis, De La Rosa, Fontaine, and Pozner.

14 THE COURT: Good morning.

15 MR. BEATTY: Good morning.

16 MS. HASELDEN: Good morning, Your Honor. Melissa
17 Haselden, Subchapter V Trustee.

18 THE COURT: Good morning.

19 MR. CHAPPLE: Good morning, Your Honor. Ryan
20 Chapple and my colleague, Randy Williams, are here on behalf
21 of what we'll probably refer to as the Connecticut
22 plaintiffs, Mr. David Wheeler, Francine Wheeler, Jacqueline
23 Barden, Mark Barden, Nicole Hockley, Ian Hockley, Jennifer
24 Hensel, Donna Soto, Carly Soto-Parisi, Carlos Soto, Jillian
25 Soto-Marino, William Aldenberg, Richard Cohn, Trustee of the

1 bankruptcy estate of Erica Lafferty, William Sherlock, and
2 Robert Parker.

3 And, Your Honor, I also have the Connecticut
4 Plaintiff's counsel on Zoom. I would like to introduce them
5 as well.

6 THE COURT: Sure.

7 MR. CHAPPLE: Ms. Alinor Sterling and Chris
8 Mattei. And they will be filing motions of pro hac. They
9 just...

10 THE COURT: Okay. Good morning to both of you.
11 And, Ms. Sterling, if you wish to speak today, if anyone
12 wishes to speak today who has not filed a pro hac, you are
13 free to do so (indiscernible) of today. Not a problem at
14 all.

15 MS. STERLING: Thank you for that courtesy, Your
16 Honor.

17 THE COURT: Okay. Does anyone else wish to make
18 an appearance in the courtroom? Okay. I am hearing some
19 background noise. So I am going to mute the line. I have
20 about 70 folks on the line, and it got a little tricky. So
21 I'm going to -- if you wish to speak, just hit five-star if
22 you wish to make an appearance. Let me see if there's
23 anyone who wishes to make an appearance. If you wish to
24 make an appearance, just hit five-star.

25 Okay. There's an area code 207-650 number. Do

1 you wish to make an appearance?

2 UNIDENTIFIED SPEAKER: Good morning, Your Honor.

3 Peter (indiscernible) from (indiscernible) Group. Thank
4 you, sir.

5 THE COURT: Good morning. Does anyone else wish
6 to make an appearance?

7 I've got one more. I've got an area code 210-601
8 number. Area code 210-601, do you wish to make an
9 appearance?

10 MR. BATTAGLIA: Sorry, Your Honor. I had it on
11 mute. Too many buttons to push. Ray Battaglia for Free
12 Speech Systems.

13 THE COURT: Good morning, Mr. Battaglia.

14 Okay, I think I have an area code 512-710. Does
15 someone wish to make an appearance from an area code 512-710
16 number?

17 MR. JORDAN: Your Honor, Shelby Jordan. I am
18 making appearance on behalf of Alex Jones.

19 THE COURT: Okay. Good morning, Mr. Jordan.

20 MR. JORDAN: Good morning.

21 THE COURT: Okay. Mr. Lee -- for the folks who
22 have made an appearance, I have left your line unmuted. I'm
23 going to ask that you just keep your phone on mute just
24 during this time. And if you wish to make -- wish to speak,
25 just let me know. Okay, I believe I have covered everyone

1 who wishes to make an appearance. So, Mr. Lee, let me turn
2 things over to you, sir.

3 MR. LEE: May it please the Court, Your Honor.
4 Kyung Lee, for the record, for the three debtors. I want to
5 take out some administrative matters before we head to the
6 substantive matters for the Court.

7 THE COURT: Okay.

8 MR. LEE: Number one, Docket 8 had a joint
9 administration motion that was set for today, and I believe
10 Your Honor has already signed that order. So that is going
11 to be moot for today's hearing.

12 THE COURT: Yes, I did sign it.

13 MR. LEE: Thank you, Your Honor.

14 Number two, I believe in the Subchapter 5 cases,
15 that it would be your desire to sign these Subchapter 5
16 deadlines order today. And we have a form of order which
17 sets the status conference for an 1188 conference as well as
18 the status report under 1188(c) and a deadline to file a
19 Chapter 11 plan under 1188. So we have a form of order for
20 that if you want to consider that at the end of the hearing,
21 or whenever you think --

22 THE COURT: I think -- I don't know who can answer
23 that question. But if we pick a date, I need to know
24 whether we're going to have a case or not. But I'm not sure
25 that you can answer that question.

1 MR. LEE: That would be a question for --

2 (Break in audio)

3 THE COURT: Yeah. It's really a question for the
4 third party contributors because they are the ones who have
5 the right to terminate it. But one of the concerns that I
6 have -- and maybe this is just something -- again, all I
7 know is we're not going to write on the papers. Right? So
8 I'm just raising some concern to something that maybe
9 somebody can answer very quickly for me, is the third-party
10 contributors essentially fund these Chapter 11 cases. I
11 don't see any sources of revenue. As I read the trust
12 agreement, the Debtors are not actually allowed to engage in
13 any business activity, so they can't generate funds. So if
14 the third party contributors decide to pull the plug and not
15 fund this at any point, you know, maybe a ruling that I make
16 or just decide they don't want to go forward with it any
17 more, you know, the lifeblood of these Chapter 11 cases goes
18 away. And I think I need to understand whether we have
19 cases or not. Because, you know, sometimes the judge rules
20 in favor of one way, sometimes the judge rules in another
21 way. And I need to know kind of whether they are really
22 committed to these cases. You know, any (indiscernible)
23 Subchapter IV trustee doing her work and doing her --
24 fulfilling her statutory duties in a Subchapter V case.

25 And I'm not indicating one way or the other that I

1 believe that the third-party contributors are not serious
2 about funding these cases. Obviously they took the time and
3 did it. I'm just raising -- parties really want to go
4 forward with a Chapter 11 case, right? There has to be some
5 stream of guaranteed source of funds, and it can't be tied
6 to dates that I haven't approved or decisions that I have
7 not yet to even consider based on motions that have yet to
8 be filed. You know, it's just not -- it's a hypothetical
9 world. But I just need to understand that.

10 But maybe all that could be answered. We're not
11 really going forward today. I'm just -- it's one of the
12 things that makes me think about the trust. And as I think
13 about the trustees -- if you're here, Mr. Okin.

14 Mr. Nelms and Mr. Schmidt, this is -- they're
15 certainly qualified. Put that aside. The question is who
16 is working on behalf of -- I'm just thinking at the 10,000-
17 foot level. Right? Who works for the estate, right? If
18 the settlement trust fees are bound by the settlement trust
19 and must only work within the confines of the trust -- and I
20 know that the trust is still yet to be negotiated. But
21 whatever it lands on, then who does the work of the estate,
22 right? If they're trustees of a trust, then by approving
23 the trustees and then approving them to do the work
24 according to the trust. So it's almost like an implied
25 approval of the work done under the trust. But then who

1 represents the estate? That's the question that ultimately
2 somebody is going to have to answer. Who does the work of
3 the estate? Who is acting on behalf of solely the interest
4 of the estate? I get it, Mr. Schwartz is operating as a
5 327, but the proposed order that was -- someone was going to
6 ask me to sign today was going to say that Mr. Schmidt and
7 Mr. Nelms could fire them without my approval. Maybe
8 somebody should think about that as they think about the
9 10,000-foot level. There has to be a 327. 327 means that
10 they are fiduciaries of the estate, which means that the
11 court would have some supervision or they would answer on
12 behalf of the estate or be fiduciaries of the estate. I
13 just want to make sure that there is someone who is going to
14 take a position, and sometimes they're hard positions, on
15 behalf of the estate.

16 And I'm not saying these questions can't be
17 answered, I'm just -- again, (indiscernible) order on
18 papers, and they raised questions. And I didn't want to
19 blindsides anyone with any of these questions that I had. So
20 I don't want to start making comments on a trust agreement
21 that you're telling me is going to get negotiated. We'll
22 have to wait and see what's finally there.

23 MR. OKIN: We are certainly happy to have your
24 comments in advance so we can address them. But we will --
25 these are issues we are wrestling with, including not making

1 sure the funding is available --

2 THE COURT: Because the money comes in, but the
3 money is not -- the way the trust is set up, the third party
4 contributors contribute to the trust, but it doesn't become
5 property of the estate because it stays within the trust,
6 and then the trustees fund in accordance with --

7 MR. LEE: The plan.

8 THE COURT: Right? So that becomes interesting.
9 And so if -- yeah, let's just say a payment in full --
10 payment in full is defined under 10.1(c). Maybe that number
11 is different than what other people may have expected. Is
12 it property -- it's not property of the estate. And so I
13 would be allowing a claim that would never be paid. It's
14 the things that I think about.

15 And again, this has zero to do with Mr. Schmidt or
16 Mr. Nelms. That's not -- I just think about on behalf of
17 the estate and the Debtors that have to get administered
18 here. I should probably stay quiet and just allow Mr.
19 Schwartz to just answer. But I'm saying this for the
20 benefit of Mr. Lee, who is going to put Mr. Schwartz on.
21 Today is a day for information as I understand it. And so I
22 think I want to kind of express some of the thoughts that I
23 had as I read the papers and give everyone an opportunity to
24 react to it. Because I'm going to ask Mr. Schwartz these
25 questions. And so I suspect -- I don't want to surprise Mr.

1 Schwartz by the way I'm reading and understanding the trust
2 agreement. Because if I've got something wrong, I want
3 somebody to tell me.

4 MR. OKIN: Your Honor, I don't think you do on the
5 current documents. And that's part of what we are working
6 on. I did just want to leave the Court with -- both Mr.
7 Schmidt and Mr. Nelms have raised a lot of these same
8 issues. They think they can be a help to this process.
9 They come at this completely neutral. They think that if
10 people give them a chance and give this process a chance.

11 They've spent their whole lives, their
12 professional careers at least, in the bankruptcy system.
13 They believe in it. They think that more often than not, it
14 is a fair and equitable process for dividing up scarce
15 resources and that if given an opportunity, they can
16 actually give some people some peace and an opportunity to
17 resolve these issues. And they think that given enough time
18 and the opportunity to do it, that they can help bring that
19 about.

20 THE COURT: Okay. Thank you very much.

21 MR. RUFF: Good morning, Your Honor.

22 THE COURT: Good morning.

23 MR. RUFF: Jason Ruff for the U.S. Trustee's
24 Office.

25 Your Honor raises a number of great questions.

1 And quite frankly, this case begs those questions as it has
2 been set forth before the Court.

3 I would like to just say at the outset too, our
4 opposition has nothing to do with the individuals that are
5 proposed to be the trustees, Your Honor. Our position is
6 threefold. And first of all, there's no emergency, so
7 that's off today. I think everybody recognizes there is no
8 emergency. But to Your Honor's questions that Your Honor
9 was just asking and what has been proposed here today, this
10 form with this litigation settlement trust, it's called a
11 litigation settlement trust. It seems to operate more than
12 that, thought. It seems to operate more like an LLC
13 operating agreement and that the trustees, as was proposed,
14 were to be managers of the LLC, have management authority of
15 the LLC, and with Mr. Schwartz reporting to them
16 essentially, that his duties would run to them. And there
17 is an inherent conflict there.

18 But Your Honor, 105, which is the authority that
19 they cite for seeking that, your Court blessed that, doesn't
20 extend that far. The bankruptcy code is clear about when a
21 court can enter orders appointing individuals, examiners and
22 trustees under 1104. And were Congress is provided a power
23 in one place but not another, Section 105 cannot be used to
24 give the court more powers.

25 And one other thing, Your Honor, is that we found

1 very problematic and was set forth of course in our
2 pleading. But the motion asks for the Court to bless
3 certain liability protections that are wholly unnecessary
4 for the Court to do. The trust stands on its own. It's an
5 agreement that the trustees are being asked to sign that was
6 orchestrated and put into place by Alex Jones and Free
7 Speech Systems. And, Your Honor, it can determine what
8 their -- if they're going to agree to that, they can agree
9 to that. They don't need the Court to do that. The
10 agreement was entered before it ever even -- these cases
11 were filed, Your Honor, before they ever came to court.

12 So it is our position that not only does the Court
13 not have authority to do it, but under the Code at least
14 Your Honor -- it is not necessary, either.

15 THE COURT: Mr. Ruff, in terms of the timing
16 question if we don't go forward on the CRO motion and on the
17 trustee motion, do you have a sense of timing?

18 MR. RUFF: Your Honor, I think we can use at least
19 21 days from the date that they were originally proposed. I
20 don't see what emergency there is. Mr. Schwartz has already
21 exercised authority on behalf of the Debtors by signing
22 these petitions.

23 THE COURT: The only question that came to my mind
24 on -- you know, and maybe Mr. Schwartz will answer the
25 question -- is somebody needs to work on schedules and, you

1 know, the bread and butter bankruptcy materials and start to
2 answer questions, and Ms. Haselden has questions or the
3 trustee has basic questions. I doubt that there's any bank
4 accounts or any -- your know, or anything. I just want to
5 make sure that there's -- but I guess Mr. Lee has given me
6 some comfort that they're there. It's the only one that
7 makes me think, you know, should we have someone -- but
8 maybe Mr. Schwartz is going to tell me that he can do that
9 work. And if he can do that work, then I'm okay with the
10 timing on that.

11 MR. RUFF: Your Honor, my response to that, to
12 your question would be simply this. Your Honor, these
13 individuals were put into place. Take a step back. These
14 companies were -- these entities were 100 percent wholly
15 owned and controlled by Alex Jones prior to the trust being
16 put into place. And they were given authority pursuant to
17 those documents, pursuant to things that were done in
18 advance of the bankruptcy case.

19 Your Honor, the court wasn't necessary for them to
20 have authority at that point. I don't see that it's
21 necessary for them to have authority now as a 327
22 professional if that's what they're going to seek for the
23 CRO's employment under. That has more to do with their
24 ability to be -- not only to act on behalf of the Debtors,
25 but also to be compensated and the duties that they're going

1 to run under the Code.

2 But every professional that comes in prior to a
3 bankruptcy case still has duties and still has an obligation
4 to act. If it all blows up, Your Honor, if there is no case
5 here, if Mr. Jones decides that he doesn't want to fund,
6 then that's really on Mr. Jones. These companies don't
7 operate, they don't have employees. This is not a situation
8 where if, for lack of a better word, these cases crater,
9 that we are going to see employees of these companies suffer
10 and be without a job and without a source of income.
11 There's not trade creditors out there or other parties who
12 are not going to receive goods and services.

13 Your Honor, the only person here who might be
14 harmed is Alex Jones. And because these cases appear to be
15 -- at least it's questionable to why we're even here. But
16 they appear to be orchestrated by him to limit his liability
17 and the liability of Free Speech Systems. So I don't even
18 know that it really even matters. It's to his benefit. He
19 wants these cases to go, then he can decide to fund these
20 cases. If he doesn't want them to go, to try and do
21 whatever it is that he's trying to do, then he can pull the
22 purse strings and back off and these cases can be dismissed,
23 which perhaps they should.

24 THE COURT: Thank you.

25 MR. BEATTY: Your Honor, if I may. I represent a

1 group of creditors who I am going refer to as the Texas
2 Claimants.

3 THE COURT: Okay.

4 MR. BEATTY: And these are the cases that
5 ultimately -- one of which was scheduled to start on Monday.
6 This bankruptcy halted that process and slowed down
7 ultimately the liquidation of damages not only against the
8 Debtors -- I think that's relatively minor. We can see
9 within the context of what's already been filed that these
10 Debtors don't really operate a business. The bankruptcy
11 itself was filed to protect Alex Jones and to protect Free
12 Speech from having to face trial on Monday.

13 And I think Your Honor has looked at and seen some
14 of the issues that we identified initially. But I think
15 there's a lot more than that. And I think that we have
16 gateway and threshold issues that have to be answered before
17 anyone should go forward in deciding who is a trustee of a
18 trust that apparently has holes in the documents and will
19 need to be changed and who is going to be appointed to run
20 these, and so on and so forth.

21 So just as a preliminary issue, I have some
22 problem with saying that we're going to hear that in 20 more
23 days. Because I think this Court is going to need to decide
24 the propriety of this bankruptcy well in advance of that.
25 There are a lot of attorneys in this room right now.

1 There's a lot of billing that's going on that to me may be
2 wholly unnecessary. And all it's doing is causing delay.

3 And, Your Honor, I think one of the things we have
4 to decide right off the bat, is this case subject to
5 dismissal, is it subject to conversion, should it be a
6 Subchapter V even? Those questions have to be answered
7 before we spend that extra money. And what we've already
8 seen in the PSA, that plan support agreement, is if you did
9 any of those things, that plan support agreement is dead.
10 If this isn't a Subchapter V, dead. Dismissed, dead.
11 Converted to a seven, dead. There is no intent on funding
12 unless they can effectively force third-party releases into
13 a bankruptcy plan. That's not permitted in the Fifth
14 Circuit. This is a near (indiscernible) opportunity for
15 them. They are trying to get a release for Alex Jones and
16 for Free Speech. And they are attempting to do it without
17 the transparency that's inherent to a bankruptcy process.
18 Because when you look at those agreements, certainly the
19 trustees have some opportunity to look at budgets for Free
20 Speech, for Mr. Jones. But when you look at the agreement,
21 at best, there's a weak, toothless oversight board who
22 doesn't necessarily have any right to look at any of these
23 confidential documents. So I think the threshold question
24 for this Court before we move forward, before we do anything
25 else, is whether or not this case should be dismissed.

1 The Fifth Circuit says that good faith implies an
2 honest intent and genuine desire on the part of the
3 petitioner to use the statutory process to effect a plan of
4 reorganization and not merely as a device to serve some
5 sinister or unworthy purpose.

6 And let me tell you, I think we've got a sinister
7 and unworthy purpose here. I don't think -- and even if I
8 am wrong on that, we don't have an actual intent to
9 reorganize here. And I say that because you can look at the
10 Schwartz declaration which was filed with every single one
11 of the petitions.

12 And I want to read a paragraph. It's Paragraph 8.
13 "I have learned that the Debtors have no purpose other than
14 to hold assets which may be used by other entities. They
15 undertake no business activities. They do not sell, rent,
16 or lease to others anything. Their assets do not generate
17 any income for them. They have no bank accounts and cannot
18 pay money to anyone for any reason. They have no debt other
19 than liabilities, other than those related to pending or
20 potential litigation. For these reasons, they have no
21 financial statements or books of account, and they do not
22 file income tax returns."

23 I don't know what we are trying to reorganize
24 here. We're not setting up a business to contain them in
25 the future, we're channeling settlements and forcing it down

1 Plaintiff's throats. They want to use a claim estimation
2 procedure, and it's transparent why that needs to occur to
3 them, because they want to face the state court. We can all
4 say we have disagreements about what the value of those
5 claims are worth. I am certain if you ask the Defense
6 attorneys from the state court litigations, they would tell
7 you none of the claims are worth much.

8 But even without ever talking to any of the
9 plaintiffs, you see an agreement that suggests there is
10 going to be \$2 million put in and a stream of income worth
11 another five. So at a minimum before we can even negotiate
12 with them, they're telling this Court \$7 million in
13 liability. And the claims estimation procedure, I don't
14 think that -- that's not a process where we have a lot of
15 different claims that will take forever to decide.

16 Again, two of my clients' claims would have been
17 decided. The dollar amount would have been done. The other
18 claims are all set for trial in state court. But there's
19 just a series of poison pills in the trust agreement and the
20 PSA. If you lift a stay, that -- no more payments. No more
21 payments from Jones. If there is a remand, no payments. On
22 and on and on. Conversion, dismissal, anything. It's all
23 dead.

24 This is a situation where the first question for
25 this Court is is this proper. And I don't want to see all

1 the parties here continuing to spend money on what I think
2 is tertiary before that actual question gets answered.

3 And, Your Honor, the simple issue is that you can
4 look at it and see that it will fail just based on the
5 question of whether or not they are a Sub V debtor. You
6 know? To be a Sub V debtor, you have to be a person engaged
7 in commercial or business activities. Mr. Schwartz has
8 already told us neither of those items are true. They don't
9 accept money, they don't get paid. They don't pay anything.
10 They don't operate.

11 So if Sub V is inappropriate, the PSA is down.
12 There is no money. These are the things we need to look at
13 first, Your Honor. I don't think we need to make any other
14 decisions.

15 MR. WILLIAMS: Thank you. Your Honor, Randy
16 Williams for David Wheeler --

17 THE COURT: Good morning. Just get to a mic. I
18 just want to make sure they can hear you on the...

19 MR. WILLIAMS: Sorry, Your Honor.

20 THE COURT: No worries. Good morning.

21 MR. WILLIAMS: David Wheeler and the other
22 Connecticut plaintiffs.

23 I think Mr. Beatty has very eloquently and
24 concisely laid out the similar concerns that our clients
25 have and that the fundamental issue here is in light of Mr.

1 Schwartz's declaration, what are we doing here? And, Your
2 Honor, I will for the record object to Mr. Schwartz giving
3 any further testimony beyond what he has already declared in
4 that declaration today. Because what have we learned so far
5 today? That we want to get trustees approved for a trust
6 that the trustees don't even agree to what it's going to
7 look like or say. And we don't know when we're going to get
8 it or when we're going to have it. And we're talking about
9 setting hearings and how long we can go, but we don't know
10 when they're going to get a trust agreement that they're
11 happy with or when we're going to be able to see it.

12 And no clock should start ticking and no deadline
13 should run on us until they come forward and give notice of
14 what it is that they want to do. You've got a PSA we've
15 talked about. It's not a PSA, Your Honor. It was
16 negotiated between Alex Jones and himself. Who stood up on
17 the other side for anybody? Because again, look at Mr.
18 Schwartz's declaration to these petitions. These entities
19 don't qualify for Subchapter V. They don't even qualify to
20 be in the Chapter 11. This has all been done for the
21 benefit of Alex Jones and Free Speech.

22 And let's talk about that for a minute. Your
23 Honor, these cases that were being litigated in Texas and
24 Connecticut have been going on for years. And in the course
25 of those cases, these Debtors, Mr. Jones and Free Speech,

1 have all suffered death penalty sanctions because of their
2 conduct before those courts. They removed the Connecticut
3 cases, they removed the Texas cases back to (indiscernible)
4 court. That's not the first time that's happened. In
5 Connecticut I know it's happened at least twice, and twice
6 they've been sent back. We've already filed an emergency
7 motion in Connecticut to remand that case, and the
8 Connecticut judge has said that the trial date as to Mr.
9 Jones and Free Speech in September of this year that's
10 already been set and was already pending, as soon as she
11 gets the case back is going to stick. And again, if they
12 wanted to estimate these claims and know what the real
13 liability was and they've really spent \$10 million in legal
14 fees that ended up in them having their pleadings struck and
15 death penalty sanctions, then why didn't they go to court on
16 Monday and see what happened in that case? Because that
17 would have laid a groundwork that would have then led to
18 something in the way of putting together a plan.

19 Your Honor, being on the bench, you have a lot of
20 experience with Chapter 11 cases I know in your practice.
21 And you know that if there's a real desire to put together a
22 plan and bring people together and forge a settlement
23 between Claimants and Debtors, that there's some negotiation
24 that goes on with someone pre-petition. And here, it's
25 nonexistent. They came up with all of this on their own.

1 Actually, Mr. Jones did it. And he's put \$750,000
2 into the trust that's already -- you ask about Mr. Schwartz.
3 And based on what I read, Your Honor, Mr. Schwartz has
4 already exhausted over \$30,000 of his \$50,000 retainer that
5 he got. He filed these cases. And if his declaration,
6 which I accept as true, then Your Honor, filing schedules
7 and statements in these cases with no bank accounts, no tax
8 returns, no income, no expenses, has got to be a pretty easy
9 process.

10 But mostly I want to get back to we've got to get
11 to the fundamental issue here. We've had somebody who,
12 because of his behavior and the behavior of the entities
13 that he owned and controlled and ongoing litigations in
14 multiple courts in Texas and Connecticut face death penalty
15 sanctions. And Connecticut, those death penalty sanctions
16 were appealed and he lost. And they were upheld. That's
17 how bad the conduct has been. And now we're in another
18 court here trying to do a Subchapter V where you don't get a
19 Committee and have a say. Only the Debtor can file a plan.
20 Your Honor, this just isn't right.

21 One of the colleagues from Connecticut in our
22 initial meeting with us said this process is illegitimate.
23 And at the time, I was thinking that's a really strong word.
24 And then I slept on it. And I told Mr. Chapple, I said,
25 well, I've got to apologize to her because she's absolutely

1 right. This is illegitimate. And before this Court begins
2 taking steps to move things forward or treat things as
3 first-day hearings, the Court needs to look at whether or
4 not this is proper and appropriate, and we need to be taking
5 all those other steps.

6 Again, we don't even have a trust agreement.
7 That's the first thing we get told today is when -- and I
8 didn't hear Mr. Lee say it. He said he didn't want to go
9 forward with it. But it was counsel for these proposed
10 trustees, said, well, we don't have a trust agreement. So
11 what are we going to have? And why are we talking about
12 what it might be when -- why aren't we looking at the issue
13 again of why we're here?

14 And another thing, Your Honor, that's troubling to
15 my clients -- and with all due respect to the Court, why are
16 we in Victoria? We've pulled the records on these three
17 entities from the Secretary of State up through November of
18 last year. Every information report that's been filed,
19 every document that's been filed on these entities says that
20 they're domiciled, their assets and their principal place of
21 business was a PO box in Austin, Texas. So why do these
22 cases get filed in Victoria? And if Mr. Schwartz's
23 declaration is true, then how do we get to Victoria if we
24 don't have any employees, if we don't have any business
25 until the last umpteen years that these companies have been

1 in business with always saying we were in Austin -- or not
2 in business, that they were in existence. I apologize, Your
3 Honor.

4 So again, we do intend to file an emergency motion
5 to dismiss because we want dismissal considered before we
6 move forward with any of this first-day issues or having
7 anyone talk about -- I don't know what information Mr.
8 Schwartz can give us beyond his declaration. And again, I
9 don't -- we are very concerned that to the extent the Court
10 comments on and takes testimony in this case, it begins to
11 legitimize the process. But again, I agree with my
12 Connecticut counsel, I will --

13 THE COURT: Let me just tell you though, today was
14 the first day and there were two motions set. And I read
15 objections that were filed to them, and no one is going
16 forward today on anything.

17 I'm giving comments based upon things that I
18 thought about when I read the overall case, read the
19 documents. I don't think anyone should read anything other
20 than that. I had two m options in front of me, and I found
21 out they're not going forward today. If someone files
22 another motion, I'll take that up and consider it.

23 So if people want me to consider something, then
24 they'll file something and I will consider it. And it
25 sounds like you are. And when that's filed, I'll consider

1 it. But right now, I have two motions and I'm trying to
2 find out -- the Debtor has filed two motions and then asked
3 for consideration of them. I've got a duty to think about
4 the timing of those questions, and I'm raising other
5 questions. And if somebody files something, then we'll take
6 that up. But somebody has to file something for me to
7 consider it.

8 MR. WILLIAMS: Both of those motions are premised
9 on a trust document that you've now been told the two
10 trustees that you were asked to appoint, don't approve of
11 them. So again --

12 THE COURT: That's why I'm asking the question.
13 I'm telling you --

14 MR. WILLIAMS: But we don't have notice of what
15 it's going to be or what we're going to do. (indiscernible)
16 set something --

17 THE COURT: I agree with you.

18 MR. WILLIAMS: We don't know what it's going to
19 be.

20 THE COURT: That's why I'm asking questions about
21 timing and what that looks like. I don't know. But I think
22 Mr. Lee is going to have to give me an answer to that
23 question. And I agree with you. We can't set a hearing
24 until there's a document that everyone can look at. Not
25 just me, but other parties and have an opportunity to review

1 and observe, and Subchapter V trustee, your client. I don't
2 know what that timing looks like.

3 So I don't know whether 20 days, 60 days makes
4 sense. I think they're going to have to tell us when that
5 document stops moving, and then we can set a date. And if
6 there are other motions that are filed before then, then
7 I'll consider those motions as well.

8 We just have to run a transparent -- and a process
9 that's based upon -- and I'm not saying you're saying
10 anything different. But you need to run a process where
11 there's transparency and there's due process afforded to all
12 parties. And I'm not going to jam anyone on an emergency
13 motion based on a document that someone has seen 24 hours in
14 advance. I'm not doing that. So let's just -- I think Mr.
15 Lee is going to have to -- and maybe with the input of Mr.
16 Okin. And maybe that's not today. But I don't think -- and
17 maybe it's just continued to a date to be determined. But I
18 think on the CRO motion, they need to -- someone needs to
19 tell me when they want to come back. And on the trust
20 document, I think we're going to have to find out. And if
21 there's another motion or something else that gets filed,
22 we'll take that up in due course.

23 And I don't think I'm -- I'm not disagreeing with
24 anything of what you're saying. I'm just highlighting for
25 the parties in the room and for those who may be listening

1 that, you know, we're going to run a process based on the
2 federal rules of bankruptcy procedure. We're going to
3 follow the Bankruptcy Code, and we're going to follow due
4 process to all parties in interest.

5 So I don't -- you know, I'm commenting on
6 documents that were in a motion that was before me. That's
7 it. I don't think anybody should read one way -- I'm not
8 legitimizing or delegitimizing anything. I think I've
9 probably asked more questions than Mr. Lee probably wanted
10 me to ask.

11 I'm just kidding. I'm just kidding, Mr. Lee.

12 MR. WILLIAMS: Respectfully, Your Honor, with
13 regard to asking Mr. Lee or Mr. Okin, it's Mr. Battaglia or
14 Mr. Jordan, whom I'm glad announced today whom they were
15 representing, since when they filed their notices of
16 appearance, they chose not to identify their clients in
17 those documents. I did see in the attachment to the trust
18 document for the budget that they had gotten retainers to
19 represent Mr. Jones.

20 It's interesting that a trust that's supposed to
21 be for the benefit of injured parties -- and again,
22 liability has already been established. That's not an issue
23 here. The only issue is the dollar amount of that. And
24 again, if you really wanted to have that decided, you could
25 have good clues starting next Monday, but Mr. Jones chose

1 not to do that. He created this bizarre system that we see
2 here, which we still don't know what it is. But it's not
3 the Debtor or the trustees, who are not actually trustees,
4 who can answer your questions. It's Mr. Jones and Free
5 Speech. Because as Your Honor has pointed out, they're the
6 ones who are using their money, and they want releases for
7 that, as Mr. Beatty has pointed out. But they don't want to
8 come into this Court. They don't even want to have their
9 lawyers file notice of appearance that identify who they are
10 appearing on behalf of. They want the benefit of bankruptcy
11 without being in bankruptcy. We'd be having a whole other
12 discussion at be at a whole other position today, Mr. Beatty
13 and I, and Mr. Jones and Free Speech for part of it. But
14 the truth is, they're not. They're staying outside of it.
15 And that's not right. They shouldn't be -- they're getting
16 the advantage of the stay of these debtors to keep that case
17 from going forward on Monday, and they paid \$750,000 of all
18 these professionals, plus some folks on the screen there, to
19 get them to make that happen. And our folks are just
20 waiting to liquidate their claims, claims that need to be
21 liquidated in state court that shouldn't be liquidated as
22 part of a bankruptcy because the Court's jurisdiction, if it
23 did have jurisdiction, would be tenuous at best.

24 But again, Your Honor, I don't have anything else
25 to add at this time. I appreciate that we are not going

1 forward today. We had only filed an emergency motion to
2 continue. We do intend to object -- well, we intended to
3 object to the motions as filed. Since they're going to
4 change, we don't know what we're going to do to those. But
5 we will be filing an emergency motion to dismiss these cases
6 on the grounds that Mr. Beatty has raised and I echoed
7 today.

8 THE COURT: Okay. Thank you.

9 MR. BATTAGLIA: Your Honor, may I briefly be
10 heard? This is Ray Battaglia.

11 THE COURT: Yes. You've identified yourself.
12 There's a lot of boxes, so I appreciate you saying that.

13 MR. BATTAGLIA: I'm not going to address all of
14 the things that are before the Court, but there are a couple
15 questions that were raised, and much has been said about, I
16 don't know, maybe some (indiscernible) responsive how my
17 appearance was entered and how this trust agreement is not a
18 final document.

19 And I think the Court should appreciate that the
20 trust agreement was negotiated somewhat in the blind.
21 That's not to suggest that Mr. Lee did not act on behalf of
22 his clients in reviewing it. But at the end of the day,
23 parties who need the most input are the trustees. And the
24 interim trustee has literally no power under this document,
25 as appropriate. So the appointment of the trustees is a

1 very important step in getting that document to final.

2 I don't think Mr. Okin -- and he can comment on
3 this. I don't think we're talking about a wholesale rewrite
4 of this document. I think there are issues that he brought
5 up this week to us that we were expecting, a first turn of
6 the document. And of course the third-party funders are
7 amenable to reasonable modifications to that document. But
8 I think that the suggestion that somehow there is something
9 nefarious about this being less than a complete document is
10 absurd. We negotiated as best we could a document that
11 serves the purpose of trying to pay allowed claims in full.
12 And the other thing I think that's missing here is that
13 should the case have gone to trial in Austin, there's a
14 significant likelihood that there would be no money for
15 anybody. And that's the intent here, is to try to preserve
16 a means to pay allowed claims. And that's what this system
17 is set up to do. I could dispute a lot of other things, but
18 I think those are the most important thing.

19 I think, Judge, your comment about April 30th, of
20 course we're not going to hold an April 30th deadline, but
21 we do need this to move forward with some speed so that we
22 know that we've got people we can talk to on the other side
23 to get these documents into final shape.

24 THE COURT: Okay, thank you. Anyone else wish to
25 address the Court at this time? Is there anyone on the line

1 who wishes to address the Court? Hit five-star. Okay.

2 MR. LEE: Good morning, Your Honor. For the
3 record, Kyung Lee. I want to apologize. My bladder is not
4 as strong as it used to be when I was younger, and that's
5 the reason I took a little break.

6 I just want to say one thing if you allow me to
7 put Mr. Schwartz on without any objection from this
8 audience. I just need to tell you, the parties have been
9 working here very hard, in good faith to create a proposal
10 to, one, pay creditors, and two, to pay them in an equal
11 fashion. I think those are really pretty legitimate
12 purposes of the Bankruptcy Code which I feel very good about
13 saying to you and to this entire group here, that I feel
14 very proud of being able to bring to this Court a process to
15 do that.

16 Yes, it may have some warts on it. And yes, it's
17 not perfect. But it's a proper purpose of this Court and to
18 this process in my view, for the 40 years I've been doing
19 this, to bring to this Court a structure that allows for
20 resolution of the bickering that's been going on for the
21 last ten years in which Mr. Schwartz and I have brought to
22 the table on Day 1 of a bankruptcy case \$10 million to be
23 made available and for equal sharing of that money among
24 creditors, and yet I hear nothing, nothing but complaining
25 by those who actually want the money or who are entitled to

1 the money.

2 And so I say to you, Your Honor, there must be
3 something else going on for people to complain about that
4 when for ten years they've had nothing to be able to collect
5 on any of their judgments. And I find that quite upsetting
6 on my part to have worked this hard to bring to the table
7 this kind of a structure and hear nothing but complaints
8 when the effort has been done solely to bring to the table a
9 structure that has fiduciaries watching over this process
10 for the next five years and bringing \$10 million to the
11 table as a first offer on the table with the parties that
12 they believe caused all this injury.

13 And so with that said, Your Honor, if I may, I'd
14 like to be able to show this Court what we've done, why
15 we're here, and what we're trying to do. And again, in a
16 non-adversarial fashion to try to present to you --

17 THE COURT: I don't know if that's possible today,
18 Mr. Lee.

19 MR. LEE: Again, I'm going to tone down my
20 rhetoric in my presentation. But I didn't have a
21 presentation for you --

22 THE COURT: Yeah. If it's in the form of a
23 presentation, I have no problem with it. If we're going to
24 -- the declaration isn't admitted into the record. So
25 there's no evidence and there's no motion to go forward. So

1 I don't need to take evidence about anything. There's
2 nothing going forward today and there's nothing that Mr.
3 Schwartz -- I want to make sure he's clear about this --
4 that will be used in connection with support of any motion
5 that may or may not go forward today. We don't have dates
6 on anything. So if what Mr. Schwartz wants to do is provide
7 what typically happens in a Chapter 11 case, someone
8 provides background information about why we're here and
9 what you intend to accomplish, I've got no problem with
10 that. I just want to make sure that everybody is really
11 clear, this is not going to serve as evidentiary in support
12 for any motion because there is no motion before the Court
13 today.

14 I will also tell everyone there is clearly -- and
15 I understand it -- a lot of emotion on both sides. It's
16 completely justifiable, and I understand it. My job is to
17 not focus on that.

18 MR. LEE: Yes, Your Honor.

19 THE COURT: My job is to rule on matters that are
20 before me, the legal issues that are before me. There are
21 parties who are being referenced who are not here, but who
22 are certainly parties in interest. They are party
23 contributors. And I've got to consider that. There are due
24 process issues that are being raised, there are motions that
25 sound like they're going to get filed. And when we take

1 them up, I may rule on them based on the evidence that is
2 before me.

3 I think some of the concerns, Mr. Lee, are legit.

4 MR. WILLIAMS: And I understand, Your Honor.

5 THE COURT: And there are legitimate concerns
6 about how we're here based on the papers. Mr. Schwartz
7 wants to talk today. Give him an opportunity to talk.

8 MR. RUFF: Your Honor, I would actually object to
9 -- I don't know -- what is he going to inform the Court
10 about?

11 THE COURT: Look, what I am anticipating -- and
12 Mr. Lee will have to (indiscernible) -- is kind of a generic
13 Chapter 11 presentation. I have questions about these --

14 MR. RUFF: Well, I have a lot of questions too,
15 Your Honor. I think everybody in this room has a lot of
16 questions. But Mr. Schwartz is being put up as the chief
17 restructuring officer.

18 THE COURT: No, he's not being put up for that
19 reason. If he's going to stand -- if Mr. Schwartz wants, he
20 can stand here and tell me about background information
21 about the case. This is not going to be used as testimony
22 in any way. Because if that's the case, then Mr. Schwartz
23 better be ready for a lot of folks cross-examining him
24 today. If this --

25 MR. RUFF: Will there be an opportunity to ask

1 questions of Mr. Schwartz?

2 THE COURT: If Mr. Schwartz is going to speak.
3 Mr. Schwartz can answer questions.

4 MR. LEE: I have no problems with that, Your
5 Honor. Mr. Schwartz is --

6 THE COURT: That's what I'm saying. If Mr.
7 Schwartz is going to -- just like every Chapter 11 case, if
8 there are questions of the person who stands up and provides
9 a presentation, folks get to ask questions.

10 MR. LEE: We intend to run a transparent process,
11 Your Honor.

12 THE COURT: I'm just saying this is not going to
13 be where Mr. Schwartz makes a statement and no one gets to
14 ask questions. If Mr. Schwartz wants to make a statement,
15 people get to ask questions.

16 MR. RUFF: I guess --

17 THE COURT: I have questions. And I'm going to
18 get my questions answered is what I'm saying. And you may
19 like the questions I ask.

20 MR. RUFF: I liked the questions that you asked
21 already, Your Honor, as I said at the outset. And again,
22 this case begs many questions. I just -- again, you are
23 here today for a specific purpose.

24 THE COURT: I agree.

25 MR. RUFF: We don't even know what these cases are

1 about now. The Debtors admittedly, Mr. Oaken --

2 THE COURT: That's what I'm trying to find out.

3 MR. RUFF: Well, okay, very well. But whatever he
4 says today might be without any merit, because it might all
5 change is what I think we heard today.

6 THE COURT: I guess that's what I'm saying. Isn't
7 that something you would want to know?

8 MR. WILLIAMS: No, Your Honor. Until we have a
9 document that we know is --

10 THE COURT: I'm not talking about the trust
11 agreement. I'm talking about general background information
12 about who does IW help. That's the question I have. What
13 do they do? Are they still conducting business activities?
14 He says no, but I'd like to hear it from him. Are they
15 conducting commercial activities? I'd like to know the
16 answer to that question. Folks, I get to ask questions. I
17 get it, you get a check, but I get to ask questions.

18 MR. WILLIAMS: I have no problem with you asking
19 questions, Your Honor. But with respect to the declaration
20 -- and I know it was offered as an exhibit -- it is part of
21 the record in all three of these cases, at least one
22 administered cases. I would ask that the Court take
23 judicial notice of that declaration and make it part of any
24 record about what he is going to talk about. Because I
25 think all your questions are actually answered in that

1 declaration. And if he is going to say something different
2 today than what's in --

3 THE COURT: You don't know that, because you don't
4 know the questions I'm going to ask, Mr. Williams.

5 MR. WILLIAMS: Well, he talks about bank accounts
6 and --

7 THE COURT: You don't know what I'm going to ask,
8 Mr. Williams.

9 MR. WILLIAMS: Yes, Your Honor. I object to there
10 being any testimony today.

11 THE COURT: There's no testimony. Mr. Williams,
12 you've been part of a million Chapter 11 cases. People get
13 to present information at the beginning, at the outset of a
14 case. That's all -- and if Mr. Lee goes too far, I'm going
15 to shut it down. It's really simple what's happening here.
16 In every Chapter 11 case, someone gets to make a
17 presentation and the Court gets to ask basic questions about
18 the Debtor. Why are you here? How did you get here? Who
19 are these three entities? What are they doing? Why are we
20 in Victoria? I get to ask a bunch of questions. It sounds
21 like you would want to know some of the answers to some of
22 these questions. Maybe there are questions you don't want
23 to know the answer to, but you get to ask questions.

24 MR. WILLIAMS: Again, Your Honor, respectfully, I
25 have no problem with you asking any questions that you have

1 about anything related to this. I do have a problem with
2 Mr. Schwartz making any presentation because this is not a
3 typical case. These folks are victims, not creditors. The
4 liability has been established. The only issue is how much.
5 Mr. Lee wants to take credit for a document --

6 THE COURT: I'm not doing any of that.

7 MR. WILLIAMS: -- that's been (indiscernible) that
8 doesn't exist.

9 THE COURT: Mr. Williams, I understand. But you
10 have to -- you said you have no problem with me asking
11 questions.

12 MR. WILLIAMS: No, Your Honor.

13 THE COURT: Okay. So, Mr. Schwartz, can I ask you
14 a few questions?

15 MR. SCHWARTZ: Yes, Your Honor. (indiscernible)
16 please?

17 THE COURT: You can stand right there. You can
18 take that microphone right there.

19 It sounds like you have a short presentation you'd
20 like to make. What would you like to tell the Court?

21 MR. SCHWARTZ: Well, (indiscernible).

22 THE COURT: If you can just get the microphone a
23 little bit closer to you.

24 MR. SCHWARTZ: What we're trying to do -- and I
25 got involved (indiscernible) in this process that

1 (indiscernible) the strategic plan, which (indiscernible).
2 But I was involved after that in a lot of the other matters.
3 But essentially to set up in a single location, a single
4 venue the claims -- the claims determination process, the
5 damage determinization process in a manner independent of
6 any influence by Mr. Jones or any of his associates and to
7 negotiate with Mr. Jones, which is what we did, creating the
8 fund, the initial fund is \$9.8 million, to pay the claims
9 over a period of five years under the supervision of the
10 trust. That's my legal description of what we're trying to
11 do. The goal was to pay off other claims.

12 Mr. Jones also, as everyone has heard, put up
13 \$725,000, and we'll continue dialogue with him. I would
14 call it a negation (indiscernible) more serious money than
15 that, we need to put up \$2 million. And then I discovered a
16 royalty that was being paid to Mr. Jones that will have
17 documentation to support this. The (indiscernible) that was
18 given to me was at some point in time IWHealth was the party
19 that generated or created that royalty and that Mr. Jones
20 for some reason at some point in time (indiscernible) paid
21 the royalty directly to Mr. Jones. They got to have that
22 royalty back. And he agreed to give us that. And then also
23 we negotiated that \$250,000 a quarter over five years to get
24 our total fund up to \$9.8 million.

25 This was a negotiated process. It was not Mr.

1 Jones telling us what he was going to do and us saying okay,
2 fine, we'll take that. I had no idea who Mr. Jones was. I
3 didn't even know until April 4th. And Mr. Lee approached me
4 and I had to go find out who is this guy. I had never heard
5 of him. I hadn't heard of Infowars. I was not very
6 interested in conspiracy theories. (indiscernible) landing
7 on the moon, and I don't pay much attention to it. So that
8 was the -- just of how we got here.

9 A little bit about the structure. There are two
10 entities in the Jones business enterprise, two legal
11 entities that are responsible for all of the money
12 generation. FSS, which is the marketing arm that reaches
13 out to his audience and sells everything from t-shirts to
14 vitamins and mineral supplements and emergency food
15 supplies, (indiscernible) that you could use. Everything
16 you would expect, from books and whatever else. That --
17 most of that inventory is supplied to FSS by a company
18 called PQPR. And they are --

19 MR. LEE: Let me interject. There's an Exhibit 6,
20 if I may approach, Your Honor, that's already in the
21 binders. It's corporate diagram that might help the
22 audience as well as the Court.

23 THE COURT: Just refer to a docket.

24 MR. LEE: It's Exhibit 6 in the witness's binder
25 book, Your Honor.

1 THE COURT: Okay, thank you.

2 MR. SCHWARTZ: And if you look at the PQPR
3 (indiscernible) supplies most of the product, not all of it.
4 Third-party vendors also supply the product, too. But
5 that's where the money comes from.

6 As you know, or they know, Jones and his companies
7 have been severely -- the word is they were cast out
8 (indiscernible) or they have had problems (indiscernible)
9 banks. But any kind of service. So they are very careful,
10 conscious, of trying to maintain their current vendors.

11 One of the concerns that came up, and we're
12 looking at this, was the question of filing the bankruptcy
13 is that that would probably push FSS over the top and it
14 would lose all of its or most of its vendor connections and
15 it could no longer survive. In 2018 and 2019 -- I'm working
16 off memory here. I'm 71 years old, so it doesn't always
17 work. But there was something like -- FSS generally did
18 something like 76 to 79, almost \$80 million of revenues in
19 those two years. That's a significant amount of money.

20 MR. WILLIAMS: Your Honor, if I could respectfully
21 -- we are hearing about entities that he is not CRO for and
22 that aren't debtors in this case. And if we're going to
23 have a presentation about the debtors in this case, I don't
24 need to know what their strategy was about why Mr. Jones
25 elected not to file another --

1 THE COURT: I have a question, Mr. Williams.

2 Thank you. Please continue.

3 MR. SCHWARTZ: Continue? Okay, 76, 78 million
4 dollars of revenue from those two entities. The -- if you
5 look at the impact of the litigation in 2021, I would
6 estimate (indiscernible) books be closed for 2021. But
7 based on the merchant receipts from the credit card
8 operations, the revenue 2021 is approximately \$56 million.
9 \$20 million less than it had been in the past.

10 THE COURT: So at some point over the last --
11 let's just call it -- you said you (indiscernible) around
12 April 4th. So let's say sometime early this month.

13 MR. SCHWARTZ: Yes.

14 THE COURT: (indiscernible) with respect to the
15 three entities that are in bankruptcy today.

16 MR. SCHWARTZ: Yes.

17 THE COURT: So let's talk a little bit about that.
18 Can you just tell me a little bit about each -- your
19 understanding as to each entity that's in bankruptcy. So
20 I'll start with the first one. Infowars LLC. It's InfoW
21 LLC, which was formerly known as Infowars.

22 MR. SCHWARTZ: Correct.

23 THE COURT: When did it change its name?

24 MR. SCHWARTZ: It was changed in April.

25 THE COURT: In April? Do you remember when?

1 MR. SCHWARTZ: No, I don't.

2 THE COURT: Sometime before the filing?

3 MR. SCHWARTZ: Oh, before the filing. It was
4 shortly before the filing as I recall.

5 THE COURT: Okay. And --

6 MR. LEE: And, Your Honor, if I may interject
7 here. Part of the reason the name was changed --

8 THE COURT: I don't want to get into the part of
9 the reason the name was -- I just want to understand.
10 Because at this point -- what does InfoW LLC do?

11 MR. SCHWARTZ: InfoW LLC owns the trade name
12 Infowars. Infowars is the name that FSS uses to market its
13 products, and that is the name that Alex's podcasts go out
14 under. So it is the trademark. It's the Coca-Cola for the
15 (indiscernible).

16 THE COURT: I won't hold you to these numbers, but
17 just help me understand. So let's just say within the 40
18 days before the filing, how much cash did -- or maybe on the
19 petition date, how much cash do you think InfoW holds?

20 MR. SCHWARTZ: InfoW has no cash. Up until the
21 time it was transferred to the trust, it was owned by Alex
22 as just part of his business operation. I don't know why.

23 THE COURT: What sources of revenues in the last
24 90 days?

25 MR. SCHWARTZ: InfoW (indiscernible) he annualized

1 his revenue (indiscernible) for use of the trade name that
2 it owns.

3 THE COURT: Okay. Okay. so let's turn to
4 IWHealth LLC. Okay. Let's just -- what does IWHealth LLC
5 do?

6 MR. SCHWARTZ: IWHealth holds a royalty interest.
7 And it's referred to a royalty. And what it is, it's a
8 commission that is paid by Youngevity to the Jones
9 enterprise for the sale of Youngevity products on the FSS.
10 But that royalty started in April, generally before the
11 filing. It is now paid to IWHealth. That was the amount I
12 said we discovered and I said has to come back here to --

13 THE COURT: Do you know how much that amount was?

14 MR. SCHWARTZ: About \$38,000 a month.

15 THE COURT: \$38,000?

16 MR. SCHWARTZ: A month.

17 THE COURT: A month?

18 MR. SCHWARTZ: Yes, sir.

19 THE COURT: Is it currently receiving?

20 MR. SCHWARTZ: Yes.

21 THE COURT: And so I think you mentioned that FSS
22 sells in markets. It's a non-debtor. Does IWHealth sell
23 and market anything or does it just receive that royalty?

24 MR. SCHWARTZ: It just receives that royalty.

25 THE COURT: Okay, thank you. Was it receiving any

1 royalty interest before? Like let's just say with in the 90
2 days before the filing?

3 MR. SCHWARTZ: Well...

4 THE COURT: Go ahead. I'll tell you why I'm
5 asking. I don't want you to be confused by my question.
6 You mentioned that there was a direct pay at some point, and
7 then you stopped. Or you stepped in and said no, it's got
8 to go directly to IW health, the royalty payment. What was
9 the pre-bankruptcy arrangement before you...

10 MR. SCHWARTZ: Pre-bankruptcy, the royalty was
11 sent to Alex Jones directly, his personal bank account.

12 THE COURT: Okay, thank you.

13 MR. SCHWARTZ: And I discovered that
14 (indiscernible) that was a Monday. Because that's when I
15 went to Austin. So prior to that date, it was not receiving
16 any royalty..

17 THE COURT: Okay. And then there's one more.
18 Prison Planet TV LLC.

19 MR. SCHWARTZ: Prison Planet owns a number of
20 videos that were produced and developed by Alex Jones'
21 enterprise. I think eight, 10, 12 or something like that.
22 There's a list of them.

23 THE COURT: Aside from own them, what does it do?
24 It just owns them?

25 MR. SCHWARTZ: It's similar to...

1 THE COURT: InfoW?

2 MR. SCHWARTZ: InfoW. It just owns them.

3 THE COURT: How much cash do you think it held on
4 the petition date?

5 MR. SCHWARTZ: It held zero.

6 THE COURT: It held zero. Within the 90-day
7 period before the petition date, was it generating any
8 income?

9 MR. SCHWARTZ: The 90 days before -- so just like
10 InfoW, owned by Alex Jones a hundred percent. And half of
11 its assets were used (indiscernible) FSS. It was not
12 anything for that use.

13 THE COURT: Okay. Okay. I guess I can ask you
14 and I can ask Mr. Lee. And I think Mr. Lee has already
15 asked the question. What do you believe the purpose of
16 these Chapter 11 cases is?

17 MR. SCHWARTZ: The purpose? The purpose is to
18 arrange to pay all of the plaintiffs the amount of their --
19 let's say in a bankruptcy sense, their allowed claim in
20 full. That's the purpose.

21 THE COURT: So when the pleadings talk about
22 paying it in full, you are referring to a defined term in
23 the trust agreement that basically says whatever the court -
24 - whatever is allowed in the bankruptcy case, the amount of
25 that claim.

1 MR. SCHWARTZ: Yes.

2 THE COURT: Okay. Does that contemplate payments
3 -- does the settlement then contemplate just the Debtors or
4 will it include a global settlement including the non-
5 debtors that you've described earlier?

6 MR. SCHWARTZ: It includes the -- specially Alex
7 Jones and FSS.

8 THE COURT: Okay.

9 MR. SCHWARTZ: Because they are the source of the
10 funds to make the payment.

11 THE COURT: Okay. Mr. Schwartz, I will tell you,
12 there was a motion set for you for today. It sounds like
13 it's not going forward. I think those are all the questions
14 that I have for you. I think that is what is customary on a
15 first day I think to just ask, get a general understanding.
16 Are you aware of anything else in connection with the
17 bankruptcy case itself that you think I should know at this
18 time in terms of what may be coming?

19 Typically -- and I'm just saying this for folks
20 who are listening. It's very typical for a bankruptcy judge
21 to ask at the beginning of a case what might I expect in the
22 short-term future. I've been told by some folks they are
23 going to file a motion, and I'll take them up. And maybe
24 this is a question for Mr. Lee. What may I expect in the
25 short near-term.

1 MR. SCHWARTZ: Well, Your Honor, I'm not a lawyer,
2 as you know.

3 THE COURT: No, no, no. You're not.

4 MR. SCHWARTZ: Mr. Lee (indiscernible) remand.
5 And that's coming I guess But I don't know -- I don't think
6 I'm qualified to talk about it.

7 THE COURT: No, no, no. I don't want you using
8 those words. That's completely fine. Thank you very much,
9 Mr. Schwartz.

10 MR. SCHWARTZ: Thank you, Your Honor.

11 MR. RUFF: Your Honor, could I just ask a couple
12 questions?

13 THE COURT: Yeah, go ahead. Just stand on the
14 other side.

15 MR. RUFF: Yeah, I'll just (indiscernible) the
16 microphone is -- there we go.

17 Mr. Schwartz, I just have a question. And it
18 relates to why we are here in Victoria. And on the
19 petitions, there was an address listed for the Debtors where
20 they were located, 5606 North Navarro, Victoria, Texas. Are
21 you familiar with that location?

22 MR. SCHWARTZ: Yes, I am.

23 MR. RUFF: Okay. And do the Debtors have a lease
24 of that space? Is that what your understanding is?

25 MR. SCHWARTZ: Well, it's executive suites. We

1 have two offices there. I guess that's some form of a
2 lease.

3 MR. RUFF: Okay. So who sits in those office?

4 MR. SCHWARTZ: There's one desk and one chair and
5 one desk and one chair. So that's...

6 MR. RUFF: Do you know when those leases were
7 entered into?

8 MR. SCHWARTZ: Early April I think.

9 MR. RUFF: So prior to that, prior to early April,
10 they weren't located there?

11 MR. SCHWARTZ: No.

12 MR. RUFF: Okay. Now, the petition that was
13 signed under penalty of perjury I believe says that for the
14 greater part of 180 days, the debtors were located at that -
15 -

16 MR. LEE: Objection, Your Honor. This is asking
17 for a legal answer. And if you want to talk about that, we
18 can talk about that.

19 THE COURT: Yeah. I think that's probably --
20 well, it's a question. I think the trustee -- I think maybe
21 Mr. Schwartz probably -- you know, like with the remand,
22 maybe someone else can answer --

23 MR. RUFF: I won't ask for a legal conclusion,
24 Your Honor. I just want to make sure it's clear though that
25 it wasn't the greater part of 180 days that the Debtors were

1 located there.

2 MR. LEE: That's not an accurate question, Your
3 Honor. (indiscernible) Dallas, Judge Hale, these Debtors
4 had domicile in every location in the state of Texas for 180
5 days. So we can have an argument about that --

6 THE COURT: But we're not going to have it today.
7 What we're going to have is argument (indiscernible) motion
8 in front of the Court that the Court will then consider.
9 Today we're just going to ask very --

10 MR. RUFF: Your Honor, I was just asking the
11 question to figure out -- to get an idea of why we are here
12 in Victoria.

13 THE COURT: You can ask questions and people can
14 answer or not.

15 MR. RUFF: Do you have any idea -- so you had
16 mentioned that Mr. Jones is the one who is going to be
17 filing -- excuse me, funding this process.

18 MR. SCHWARTZ: Mr. Jones and FSS. Most of the
19 money come from -- of the \$9.8, most of it will come from
20 FSS.

21 MR. RUFF: Okay. Ans is it your understanding
22 that both of those entities are also liable for the same
23 body of claims that we are here to try and deal with?

24 MR. SCHWARTZ: Well, I must admit, I've not looked
25 at the petitions and complaints in the underlying cases. I

1 would be shocked if they were not. That's where the money
2 is at.

3 MR. RUFF: Okay. Any idea -- and again, only if
4 you actually know or whatever. But any idea or any
5 discussions as to why Mr. Jones didn't file for bankruptcy?

6 MR. SCHWARTZ: Yes.

7 MR. RUFF: Okay. Do you know why? What was
8 discussed as to why he didn't file for bankruptcy?

9 MR. SCHWARTZ: I know the discussions because I
10 was involved in some of them. The discussions was, you
11 know, Infowars is a prominent trademark in the conspiracy
12 theories community, if you will. Alex Jones' name is
13 equally as prominent. And so the concern was
14 (indiscernible) FSS, FSS were concerned about losing
15 lenders. In Alex Jones' case, that it would somehow ruin --
16 harm this trademark, his name and his ability to generate
17 funds, sell merchandise to these people.

18 MR. RUFF: So that's what was expressed to you at
19 least?

20 MR. SCHWARTZ: That was what we discussed.

21 MR. RUFF: And does that make sense to you, that
22 that would -- I mean, he is funding this. the claims are
23 against him. Does it make sense that somehow him being part
24 of a bankruptcy process that is open and transparent -- how
25 does that harm him?

1 MR. SCHWARTZ: Being put into bankruptcy is what
2 we were concerned about. By putting him in bankruptcy would
3 harm his trademark value, his value to us and generally
4 cashflow. That was the reason as I understood it. And that
5 was the reason I was involved in discussing it.

6 MR. RUFF: Well, why didn't it harm the debtors
7 that actually filed then? They own intellectual property,
8 don't they?

9 MR. SCHWARTZ: They own intellectual property, but
10 they are not in the public eye at all. I don't think anyone
11 knew who InfoW was or Infowars LLC was. I would assume, and
12 I think a lot of people did, that that was a significant
13 entity other than the ownership of the trade name, which is
14 significant. That was all the significance to the business
15 operation (indiscernible).

16 MR. RUFF: Now, you had mentioned that when you
17 were negotiating -- for example, you had mentioned that you
18 said that when you discovered about those royalties, hey,
19 those have to become and be paid directly to -- I forget who
20 it was. I think IWHealth?

21 MR. SCHWARTZ: Yes.

22 MR. RUFF: Okay. And when were those negotiations
23 taking place approximately?

24 MR. SCHWARTZ: Well, they started on the first
25 Monday I was in Austin, right after the April 4th meeting

1 with Mr. Lee. They probably, you know, went for four or
2 five days (indiscernible) for transferring the
3 (indiscernible) sending money to the trust, we've got to get
4 bank account (indiscernible) for the trust.

5 MR. RUFF: Okay.

6 MR. SCHWARTZ: Because the trust was going to own
7 InfoHealth. That's what -- the decision was made to put it
8 (indiscernible).

9 MR. RUFF: Okay. And were you engaged as the
10 chief restructuring officer at that point?

11 MR. SCHWARTZ: I don't think so. I think I was
12 engaged on the 8th or 9th of April. I could have been. It
13 was very close to that date.

14 MR. RUFF: Okay. So the agreement, the trust
15 agreement that you said that you were negotiating, you were
16 not really negotiating on behalf of nay party, were you?

17 MR. SCHWARTZ: No. Each party had a lawyer there.
18 I guess the trust didn't. But I was the CRO. I guess I was
19 negotiating for the Debtors, because that's who my
20 responsibility was to.

21 MR. RUFF: Is it more accurate to say you were the
22 proposed CRO at that point?

23 MR. SCHWARTZ: Correct. I was proposed CRO.

24 MR. RUFF: Okay. So do you think maybe perhaps it
25 was more accurate to say that you were giving advice as to

1 how it would be better set up optically?

2 MR. SCHWARTZ: No. I was not giving advice on
3 (indiscernible). They wanted me to be CRO. I've got a
4 reputation -- I've been in this business for over 40 years.
5 And I've done all kinds of stuff. I worked as a
6 (indiscernible) receiver. I've been special
7 (indiscernible). I've got a reputation. They came to me
8 and they wanted my reputation. You want my reputation.
9 That's one of the things (indiscernible) everything to be
10 clear. If this money does not belong to Alex, shouldn't be
11 going to Alex, (indiscernible) over here. So I didn't put
12 it in those words, and I didn't have to.

13 MR. RUFF: Sure. So it's accurate to say that if
14 you were going to be a part of this, this is how you wanted
15 it to be done.

16 MR. SCHWARTZ: I wanted it to be clear, clean, as
17 see-through, and I wanted it to be right. I wanted as much
18 money getting into the pot. I'm not think that this was
19 being negotiated. I'm thinking this is going to be hard to
20 do with \$725,000 and \$40,000 a month royalty.

21 MR. RUFF: Right. So I guess my question then is
22 your negotiation was more on behalf of yourself and, hey, if
23 I'm going to be invested in this, this is how I want it to
24 be.

25 MR. SCHWARTZ: No. At that point in time, my

1 objective was to get as much money on the table you can get
2 for the benefit of claimants, the claimants. That was our
3 job. Okay? If they wanted me here, then they had let me do
4 my job. And that would continue to be the case. You know,
5 can we get more money on the table is the question I have.

6 MR. RUFF: Okay. But again, that was your job
7 that you were looking perhaps to do. At that point you had
8 not been engaged, correct?

9 MR. SCHWARTZ: Correct. I had not been engaged.

10 MR. RUFF: Okay. So Mr. Jones and presumably some
11 of his professionals were looking to have you engaged in
12 this process at this time. Is that correct?

13 MR. SCHWARTZ: Well, and they were definitely
14 considering engaging me because I went to their office and
15 they held nothing back from me that I asked f

16 MR. RUFF: And at that time, they were propping to
17 you this structure. Is that acute?

18 MR. SCHWARTZ: Yes. They were working on the
19 structure. But the framework was...

20 MR. RUFF: Did they have a draft of trust
21 agreement, for example, for you to look at?

22 MR. SCHWARTZ: I don't recall when I first saw
23 that.

24 MR. RUFF: was it discussed do you believe?

25 MR. SCHWARTZ: In general, the trust agreement.

1 MR. RUFF: Okay.

2 MR. SCHWARTZ: I knew there was on coming. I knew
3 who the proposed trustees were.

4 MR. RUFF: If -- and that a big if -- if these
5 cases are to go forward, do you think the Debtor or you as
6 the chief restructuring officer of the Debtors would have
7 any opposition to a committee being appointed in these
8 cases?

9 MR. SCHWARTZ: I mean, whatever the Court wants.
10 I want this thing -- my goal when I walk off this thing five
11 years from now that nobody can question what I did. And if
12 someone wants to have a committee, they'll have a committee.
13 I mean, that's not for me to say. But I don't have a
14 problem with it.

15 MR. RUFF: All right. Thank you, Mr. Schwartz.

16 THE COURT: Thank you.

17 Mr. Lee, let me just ask you. We're not going
18 forward today. Thank you very much, Mr. Schwartz.

19 MR. LEE: That's correct.

20 THE COURT: So you agree with Mr. Williams that I
21 think it's premature to set a date on a timing for the
22 motion, call it the trustee motion, until there is some --
23 until the document stops moving. And then somebody can
24 refile the --

25 MR. LEE: I disagree -- I apologize.

1 THE COURT: No, I get it. But I'm just telling
2 you. Because you're asking for this (indiscernible) relief,
3 right? And this is different than -- maybe you refile
4 something and maybe the date gets set. But as of right now,
5 I don't know what version of that document is going to look
6 like based upon the statements that Mr. Okin made. So this
7 isn't a DIP that's going to get tweaked or a disclosure
8 statement where additional sentences are going to get added
9 based upon objections and you kind of negotiate it up. This
10 is a trust agreement that, I don't know, could materially
11 change. Mr. Battaglia tells me it won't or he doesn't
12 anticipate it, but I don't know. Maybe we set a status
13 conference in a week and then we'll know more.

14 MR. LEE: Your Honor, I fully support that. And
15 let me just add to this that --

16 THE COURT: Let me get this additional thought
17 out.

18 MR. LEE: Yes, sir.

19 THE COURT: At that status conference, you're
20 going to have to help me understand why at a minimum InfoW
21 and Prison Planet are Subchapter V debtors. We haven't
22 taken any evidence today. But based upon what I've heard --
23 so I'm not ruling on it. You're going to have to help me
24 understand.

25 MR. LEE: Yes, Your Honor.

1 THE COURT: And I want to make sure that everybody
2 understands why I'm asking these questions. And it's based
3 entirely on the statutory provisions. Section 1182 of the
4 Bankruptcy Code defines a Debtor as a person that engaged in
5 commercial or business activity. Person is defined in
6 Section 101(41) of the Bankruptcy Code and includes
7 individuals, partnerships, or corporations. So person
8 directly is satisfied, but commercial or business activity,
9 I don't hear any. (indiscernible) comes to those two. And
10 today is not the day to take it up. I just want everybody
11 to give it some thought based on what I heard. I think
12 IWHealth -- and again, I didn't take any evidence. But I
13 did hear Mr. Schwartz say that at least there is a royalty
14 of some amount coming in every month, which I think puts
15 that entity in a different bucket than the other two that I
16 heard. And again, this is just preliminary discussions that
17 I've heard. And I'm putting this in the what kind of case
18 do we have as I ask the questions about third-party funding,
19 you know, the ability for them to cut off the lifeline of a
20 case at any point, the role of the trustees and who they
21 would serve, the role of a CRO, whether a true fiduciary of
22 the estate or working for a trust that has not -- that may
23 not have the best interest of the estate. And it may or may
24 not, but I think at a minimum I need to understand from a
25 foundational standpoint what chapter these cases should be

1 in.

2 It sounds like other motions are going to get
3 filed, and I'm not here to prejudice or encourage one way or
4 the other what people are going to file. People will file
5 whatever they file, and we take them up in due course. But
6 based upon what I heard, I think we've got -- I've got to
7 answer that question pretty quickly, and I think it can be
8 done in short order I suspect.

9 Mr. Lee?

10 MR. LEE: Yes, Your Honor.

11 THE COURT: Now I'm going to stay quiet.

12 MR. LEE: Number one, with respect to the question
13 that you've asked about the two other entities, I can give
14 you the answer today, but I am prepared to answer at the
15 status conference, and we'll present whatever you want that
16 we think satisfies the business rule that you are asking
17 about insofar as these two Debtor entities, and we are happy
18 to do that.

19 THE COURT: Okay.

20 MR. LEE: Number two, whatever they want to file,
21 please file. Number three, in our way of thinking about
22 this issue, Your Honor, there's only so much a Debtor can do
23 pre-petition to negotiate with third parties. Like in a
24 DIP, as you all know. We've brought what is best -- what we
25 could do with third parties. We are asking now for the

1 creditors, the U.S. Trustee, and for you to help us finish
2 those negotiations. Because we don't have the balance of
3 the leverage of negotiations with FSS and Alex Jones. And
4 that's why we are here. And so if the parties want to do
5 that, they should do that. And we encourage that. We've
6 told everybody that. But for people to just nick pick at
7 this thing and to say it's not appropriate, et cetera,
8 they're fine. They can do that. But I want the Court and
9 everyone to know that there is a good faith effort being
10 made here to try to do something constructive with the
11 bankruptcy process. And you're right, it's not perfect.
12 It's not the panacea of all things. But it is a construct
13 devised to bring together the parties to a resolution of a
14 very sad and complex situation. And just like the Boy
15 Scouts, just like the Catholic Diocese, just like any other
16 situation where litigation is at hand, the Bankruptcy Code
17 and the courts are the appropriate vehicles to do this. And
18 we've picked one because we think it's a resolution process
19 that makes sense here. And because, unlike the Boy Scouts,
20 unlike Catholic Diocese, there are not millions of dollars
21 available here. There are limited funds, and we are trying
22 to maximize it so that it goes to the Claimants. And that's
23 part of the reason why we chose Subchapter V, because not
24 only are we qualified to do that, but it's the right vehicle
25 under the Bankruptcy Code to do this. And that's why we are

1 here.

2 And again, these are arguments, nothing more than
3 arguments. And we'll come to you at the appropriate time to
4 make these as actual fact and proof. But we'll be here on
5 the status conference when you want us to. I'm going to
6 push the parties to get this trust document done. And I
7 will tell you, I disagree with Mr. Williams and I disagree
8 with the other parties wanting to delay this thing. Because
9 we only have 120 days to get this case done in my view. The
10 trust document is what it is. It will get fixed to the
11 point where I think you will get comfortable with it. The
12 two jurists aren't going to sit on something were either
13 they have been misled or not appropriate.

14 And for people to suggest that you're going to be
15 snookered by something like this I think is inappropriate.
16 The parties are going to act right on this side of the
17 table, and we're going to do our very best to make sure the
18 process is correct, that it's upright, and that it's in good
19 faith. And I will be here to present all of that to you
20 next Friday, and I'm going to push the parties to get the
21 trust document done and to fix the PSA as you pointed out
22 and the things that you've said so far. And we'll proceed
23 as --

24 THE COURT: Wait a minute. I'm not approving the
25 PSA. So (indiscernible).

1 MR. LEE: I'm a little overly-ambitious today,
2 Your Honor. And I apologize for that. But we will be here
3 Friday to take care of whatever you --

4 THE COURT: I want -- there's a lot of folks here
5 I courtroom and a lot of folks on the phone saying they are
6 going to file things. And once they're filed, we'll take a
7 look at them and we'll take them up. I am making no ruling
8 today on the two matters that were set, the CRO motion and
9 the trustee motion. I very much appreciate all the comments
10 made by the parties. I very much appreciate the statements
11 made by Mr. Schwartz. I know more than I did before I got
12 on. And if parties file things, then we'll take them up.
13 Everybody knows here in Southern District, reach out to my
14 case manager and just let me know something got filed. You
15 know, I'll set a hearing on it.

16 Why don't we set a status conference? And status
17 conference, again, I don't know if it's going to be an
18 evidentiary hearing. It might just -- but everybody is
19 going to get plenty of notice before any witness is filed.
20 I can carry any witness and exhibit list that got filed. If
21 parties want to supplement it based upon something they may
22 or may not see, they certainly have the right to do so. But
23 I'm not going to -- you know, if you filed something today
24 and you feel like it's good, it will carry whenever
25 something gets heard, probably should take comfort in that.

1 You know, would Friday the 29th, do you think we
2 could hold it -- would 3:00 work for the parties?

3 MR. LEE: For the Debtors it does, Your Honor.

4 THE COURT: Okay.

5 MR. LEE: I'm sorry, Your Honor. Did you say the
6 29th?

7 THE COURT: Yes. That's next Friday I believe.
8 Yeah.

9 MR. OKIN: Your Honor, if the goal was to have the
10 trust document done and available to parties with time to
11 read it, could I suggest we push it to Monday?

12 THE COURT: Well, the reason I am not pushing it
13 until that following Monday is I would like to stop and just
14 see where things are. And maybe at that point -- I don't --
15 there's going to be a lot of moving pieces over the next
16 week, and I want to just stop there, even if it's just to
17 check in. It could be a ten-minute hearing. It could be
18 more. But I want to check in at that point and I want to
19 put the pressure on the parties, which means that some young
20 associate is going to be working all weekend. And all I can
21 say is I've been there.

22 MR. LEE: Your Honor, if I may ask, are there any
23 specific issues you would like for us to be in a position to
24 address for you at that status conference next Friday?

25 THE COURT: The only things that are before me are

1 the two motions. And I've got to check in to see where that
2 is and when the parties wish to go forward on that. And if
3 something else gets filed, then we can talk scheduling on
4 that. But at least it's a good place, we don't lose much
5 time on this.

6 Does anyone else have anything they wish to say at
7 this time?

8 MR. WALSTON: Your Honor, Cliff Walston on behalf
9 of the Texas plaintiffs.

10 THE COURT: Yes, sir.

11 MR. WALSTON: The only other data point I would
12 like to add is I do believe as to what is coming, the Texas
13 plaintiffs intend to immediately file a motion to lift the
14 stay before Your Honor and a motion to remand the trial
15 court proceedings back to the state court. In particular,
16 the trial that was supposed to start on Monday. And I think
17 that it's important to --

18 THE COURT: But can you just -- something -- I
19 don't know -- I heard the word remand. I have not heard the
20 word removed.

21 MR. WALSTON: Yes, Your Honor.

22 THE COURT: I don't know what the status of that
23 litigation is and where it is. Maybe you can help me with
24 that.

25 MR. WALSTON: Sure. I'll help you. I'd love to

1 fill you in on the details of that.

2 As we all know, Mr. Lee filed this plan in the wee
3 hours of Monday morning. At 9:30 Monday morning of this
4 week, the plaintiffs in that lawsuit non-suited Infowars
5 LLC.

6 THE COURT: Okay.

7 MR. WALSTON: Infowars LLC was the only debtor
8 that was a defendant in that case. The other two debtors
9 are not parties to that case. Then after at 3:30 p.m., even
10 though by operation of law, Infowars LLC was no longer a
11 party to that litigation because the notice of non-suit had
12 been filed and under state law becomes effective upon
13 filing, Infowars nevertheless removed that case to the
14 Western District in Austin because that case was set to
15 proceed in Austin. And they had a pretrial hearing on
16 Wednesday of this week previously scheduled to handle all
17 pretrial matters in addition. The court there had requested
18 an especially large jury pool of extra jurors to show up on
19 Monday.

20 And so ultimately after a contested hearing on
21 Wednesday about whether that removal was proper, even though
22 at the time of removal Infowars was not a party to that
23 case, the court ultimately decided there in the trial court
24 that the plaintiffs needed to go to the court of -- to the
25 Austin bankruptcy court, Western District Bankruptcy Court,

1 seek remand of that trial court back to her. And she
2 informed all of the parties that the very first possible day
3 after that case hits back and she is able to get a hundred
4 jurors in that courtroom, that they were going to start
5 trial.

6 THE COURT: So that's the question. You kind of
7 got to it. So it's not before me.

8 MR. WALSTON: It is not before you. The motion to
9 lift --

10 THE COURT: (indiscernible).

11 MR. WALSTON: You said what is going to be filed.

12 THE COURT: No, I appreciate it.

13 MR. WALSTON: None of the cases -- so there were
14 three cases for the Texas plaintiffs set back to back to
15 back. The first was supposed to start on Monday. The
16 second one was June, I believe. And the third one is set
17 for August, I believe. So all three of those cases were
18 removed to the Western District as a part of this filing.

19 What is before you though is in the second and
20 third of those cases, Infowars LLC is still a defendant in
21 those cases. So we will be seeking to lift the stay as to
22 those two, to then go to the Western District to seek remand
23 of those two cases, what I'm going to call the June and
24 August trials.

25 THE COURT: Got it.

1 MR. WALSTON: But the reason why I raise these
2 issues is because those trials aren't just about liquidating
3 the damages, liquidating these claims. And I actually
4 applaud Mr. Lee for trying to come up with a creative
5 structure to put some money on the table for the Claimants.
6 But those trials will actually determine the nature of those
7 claims and likelihood. And here's why.

8 The Austin court had already entered a liability
9 finding against Mr. Jones with three key issues. The first
10 was that he was liable for defamation. The second was that
11 he did that with actual malice, which includes an intent to
12 harm element. And the third was a finding that all of Mr.
13 Jones' entities, including Infowars, Free Speech Systems,
14 and Mr. Jones himself, were all alter egos of each other.

15 And so had that case gone to trial and there had
16 been the liability finding had become final and that claim
17 had been liquidated in terms of an actual dollar amount,
18 there is a very high likelihood that as to Alex Jones
19 individually, that would not have been a dischargeable debt
20 under 523 because it was a damage award against him for an
21 intentional tort in harming these families.

22 THE COURT: But I guess --

23 MR. WALSTON: And so it's the nature of the claim
24 as well, not just the amount.

25 THE COURT: No, I understand that. I guess but

1 procedurally what's coming our way is a motion to lift stay
2 to --

3 MR. WALSTON: Two of the three.

4 THE COURT: Two of the three to allow you to seek
5 remand.

6 MR. WALSTON: Correct.

7 THE COURT: In the Western District.

8 MR. WALSTON: We don't believe we need to seek
9 your lifting the stay as to the one case in which
10 (indiscernible). Correct.

11 THE COURT: Okay. I just want to make sure
12 procedurally I understood why you were using the word
13 remand.

14 MR. WALSTON: Yes.

15 THE COURT: You weren't asking me to remand
16 anything. It's in the Western District. I just wanted to
17 understand where they were.

18 MR. WALSTON: Correct.

19 THE COURT: Okay, thank you.

20 MR. WALSTON: And the other aspect of this too,
21 Your Honor, as we learned from Mr. Schwartz as to the type
22 of money that was generated by Alex Jones and his entities.
23 You know, each year we heard \$80 million, we heard it's down
24 to \$50 million. So the practical reality for these
25 creditors isn't just a dollar amount. Mr. Jones, since 2012

1 when this tragedy happened, has apparently generated in
2 excess of half a billion dollars of revenue with his
3 bullhorn. That's how he makes his money. He sells these
4 products because he has an audience of millions and millions
5 of people and he has a very, very loud bullhorn with which
6 to do it.

7 These individual families don't have that kind of
8 platform. They do in the courtroom. And these cases are
9 every bit as much about having a determination finally made
10 for them, them having their day in court in which Mr. Jones
11 is held accountable for his conduct. So it's not just about
12 a liquidating claims procedure, it is very emotional. And
13 that's why there are so many people in this courtroom and
14 stuff.

15 THE COURT: Yeah.

16 MR. WALSTON: So those cases are very important to
17 go forward, not just from a claims perspective and what that
18 claim really is, and is that claim even dischargeable, but
19 it's also about them having their day in court and the
20 emotional aspect that comes with that and their right as a
21 plaintiff to have their claims heard by a jury of their
22 peers.

23 THE COURT: If you file the motion, we'll consider
24 it.

25 MR. WALSTON: Thank you.

1 THE COURT: Thank you.

2 MR. LEE: Your Honor, just one observation to show
3 the power of the bankruptcy system. As soon as we filed,
4 they non-suited us. So it was (indiscernible) Infowars. I
5 just want you to know that.

6 THE COURT: Is there anything else procedurally I
7 should know about before we -- is there anyone on the line
8 who wishes to address the court? Hit five-star. I didn't
9 mean to neglect anyone who wishes to address the Court.
10 Okay. All right.

11 I thank everyone today for their participation. I
12 would let everyone know for those of you who are
13 participating by video and by phone, as you can tell, my
14 dial-in number and the GoToMeeting link is on there. It is
15 available at any time for me. So if there is another
16 hearing set, it sounds like Next Friday at 3:00 p.m., it's
17 going to be the same dial-in and the same GoToMeeting link
18 for all cases that are before me. So it's just not -- it's
19 a feature that I'm very proud of that we have here in the
20 Southern District of Texas. Feel free to participate, free
21 to listen in. And I thank you very much for your time and
22 your participation. I thank each of the parties for their
23 time, and I will see everyone next Friday at 3:00 p.m.
24 Thank you.

25 (Proceedings adjourned at 10:49 a.m.)

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CERTIFICATION

I certify that the foregoing is a correct transcript from
the electronic sound recording of the proceedings in the
above-entitled matter.

A handwritten signature in black ink, reading "Sonya M. Ledanski Hyde". The signature is written in a cursive, flowing style.

Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: April 27, 2022

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

IN RE:	§	
INFOW, LLC <i>et al.</i>	§	CASE NO. 22-60020
	§	
	§	CHAPTER 11 (Subchapter V)
	§	Jointly Administered
DEBTORS. ¹	§	

ORDER GRANTING MOTION OF THE UNITED STATES TRUSTEE
TO DISMISS DEBTORS' CHAPTER 11 CASES
[Related Dkt. No. __]

CAME ON for consideration by the *Motion of the United States Trustee to Dismiss Debtors' Chapter 11 Cases* (the "Motion"). For the reasons set forth on the record, it is hereby

ORDERED that the Motion is **GRANTED**; it is

FURTHER ORDERED that the above-captioned Debtors' chapter 11 cases are hereby dismissed.

The Court shall retain jurisdiction to interpret and enforce the terms of this Order.

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are as follows: InfoW, LLC, f/k/a Infowars, LLC (6916), IWHealth, LLC f/k/a Infowars Health, LLC (no EIN), Prison Planet TV, LLC (0005). The address for service to the Debtors is PO Box 1819, Houston, TX 77251-1819.

EXHIBIT B

NO. X06-UWY-CV-18-6046436S	)	SUPERIOR COURT
)	
ERICA LAFFERTY, ET AL,	)	COMPLEX LITIGATION DOCKET
)	
VS.	)	AT WATERBURY
)	
ALEX EMRIC JONES, ET AL,	)	JUNE 23, 2021
)	
)	
)	
NO. X-06- UWY-CV18-6046437-S	)	SUPERIOR COURT
)	
WILLIAM SHERLACH,	)	COMPLEX LITIGATION DOCKET
)	
VS.	)	AT WATERBURY
)	
ALEX EMRIC JONES, ET AL.	)	JUNE 23, 2021
)	
)	
)	
NO. X06-UWY-CV-18-6046438S	)	SUPERIOR COURT
)	
WILLIAM SHERLACH, ET AL.,	)	COMPLEX LITIGATION DOCKET
)	
VS.	)	AT WATERBURY
)	
ALEX EMRIC JONES, ET AL.	)	JUNE 23, 2021

CONFIDENTIAL

ORAL AND VIDEOTAPED DEPOSITION OF

MICHEAL ZIMMERMANN

JUNE 23, 2021

ORAL AND VIDEOTAPED DEPOSITION OF MICHEAL ZIMMERMANN,
produced as a witness at the instance of the PLAINTIFF, and
duly sworn, was taken in the above-styled and -numbered cause
on JUNE 23, 2021, from 9:00 a.m. to 10:30 a.m., before Rosalind

1 Dennis, Notary in and for the State of Texas, reported by
2 machine shorthand, appearing remotely from Dallas, Texas,
3 pursuant to the Federal Rules of Civil Procedure and the
4 provisions stated on the record or attached hereto.
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A P P E A R A N C E S

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ALSO PRESENT:

Joel Raguso - Videographer

1 Q. And you are prepared today to testify as a corporate
2 representative for Infowars, LLC on all the topics listed in
3 this notice of deposition?

4 A. I am.

5 Q. Has Infowars, LLC produced documents in this case?

6 A. Not to my understanding.

7 Q. So is that a no?

8 A. That's a no.

9 Q. When was Infowars, LLC registered?

10 A. Infowars, LLC was registered on November 15th, 2007.

11 Q. Okay. And what is the business purpose of
12 Infowars, LLC?

13 A. Infowars, LLC has no business purpose.

14 Q. Why was it created?

15 A. I do not know.

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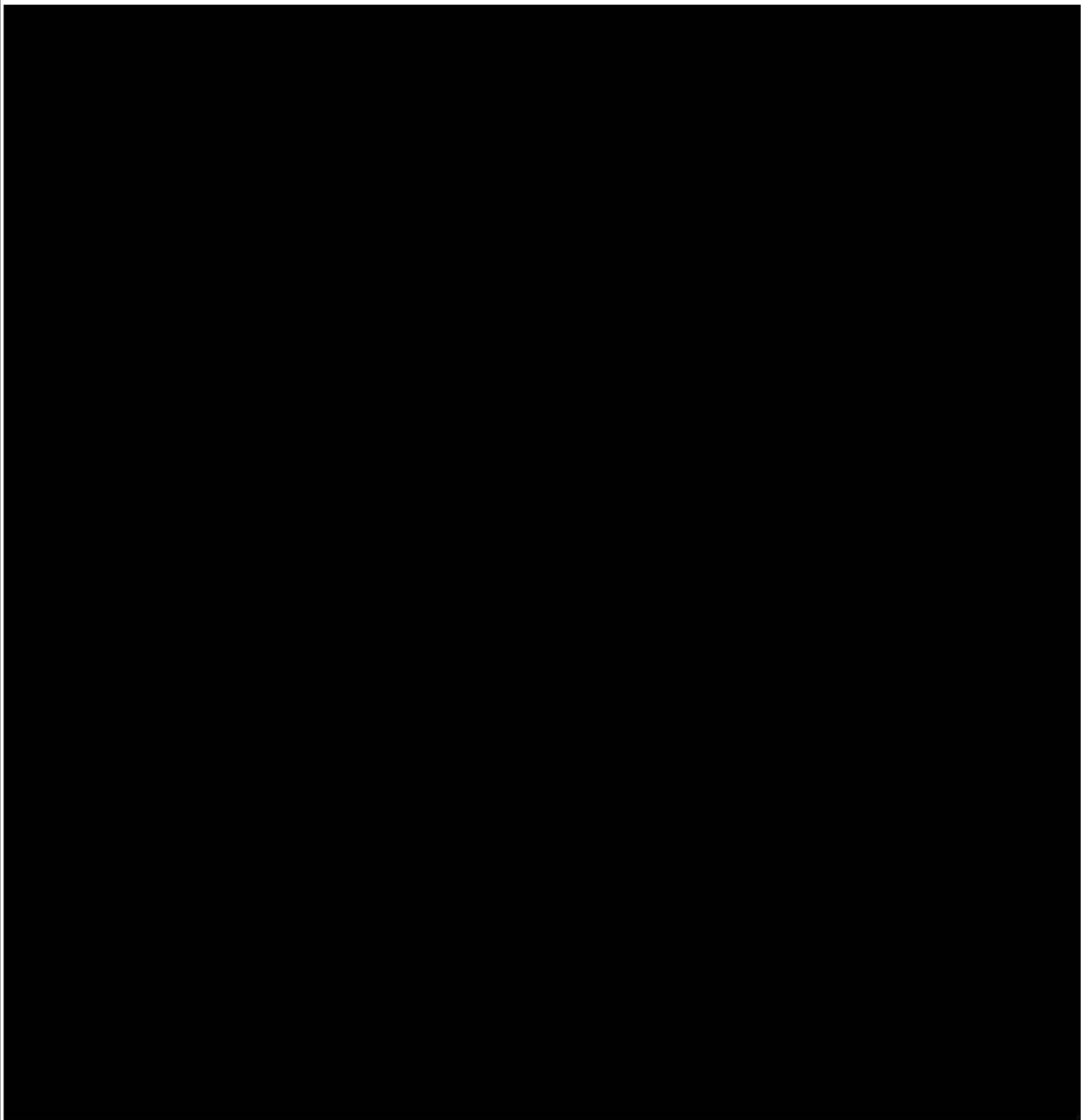
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Q. Who owns Infowars, LLC?

A. Alex Jones is the owner of Infowars, LLC.

Q. Is he the sole owner of Infowars, LLC?

A. He is the sole owner and member of Infowars, LLC.

Q. Does Infowars, LLC own any part of any other entity?

A. It does not.

1 NO. X06-UWY-CV-18-6046436S) SUPERIOR COURT
)
ERICA LAFFERTY, ET AL,) COMPLEX LITIGATION DOCKET
)
VS.) AT WATERBURY
)
ALEX EMRIC JONES, ET AL,) JUNE 23, 2021
)
)
)
)
NO. X-06- UWY-CV18-6046437-S) SUPERIOR COURT
)
WILLIAM SHERLACH,) COMPLEX LITIGATION DOCKET
)
VS.) AT WATERBURY
)
ALEX EMRIC JONES, ET AL.) JUNE 23, 2021
)
)
)
NO. X06-UWY-CV-18-6046438S) SUPERIOR COURT
)
WILLIAM SHERLACH, ET AL.,) COMPLEX LITIGATION DOCKET
)
VS.) AT WATERBURY
)
ALEX EMRIC JONES, ET AL.) JUNE 23, 2021

15 REPORTER'S CERTIFICATION

16 DEPOSITION OF MICHEAL ZIMMERMANN

17 JUNE 23, 2021

18

19 I, Rosalind Dennis, Notary in and for the State of Texas,
20 hereby certify to the following:

21 That the witness, MICHEAL ZIMMERMANN, was duly sworn by
22 the officer and that the transcript of the oral deposition is a
23 true record of the testimony given by the witness;

24 That the original deposition was delivered to
25 MR. BLUMENTHAL.

1 That the amount of time used by each party at the
2 deposition is as follows:

3 MR. BLUMENTHAL00 HOUR(S):51 MINUTE(S)
4 MR. WOLMAN00 HOUR(S):025 MINUTE(S)

5 That pursuant to information given to the deposition
6 officer at the time said testimony was taken, the following
7 includes counsel for all parties of record:

8 Mr. Blumenthal Attorney for the Plaintiff.

9 Mr. Wolman Attorney for the Defendant.

10 I further certify that I am neither counsel for, related
11 to, nor employed by any of the parties or attorneys in the
12 action in which this proceeding was taken, and further that I
13 am not financially or otherwise interested in the outcome of
14 the action.

15 Certified to by me this 5th day of July, 2021.

16
17 

18 ROSALIND DENNIS
19 Notary in and for the
20 State of Texas
21 Notary: 129704774
22 My Commission Expires: 10/8/2022
23 US LEGAL SUPPORT
24 8144 Walnut Hill Lane
25 Suite 120
Dallas, Texas 75231
214-741-6001
214-741-6821 (FAX)
Firm Registration No. 343

EXHIBIT C

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D-1-GN-18-001835

NEIL HESLIN)
) IN DISTRICT COURT OF
VS.)
) TRAVIS COUNTY, TEXAS
ALEX E. JONES, INFOWARS,)
LLC, FREE SPEECH SYSTEMS,) 261ST DISTRICT COURT
LLC, and OWEN SHROYER)

D-1-GN-18-001842

LEONARD POZNER AND)
VERNONIQUE DE LA ROSA)
) IN DISTRICT COURT OF
VS.)
) TRAVIS COUNTY, TEXAS
ALEX E. JONES, INFOWARS,)
LLC, and FREE SPEECH) 345TH DISTRICT COURT
SYSTEMS, LLC)

D-1-GN-18-006623

SCARLETT LEWIS)
) IN DISTRICT COURT OF
VS.)
) TRAVIS COUNTY, TEXAS
ALEX E. JONES, INFOWARS,)
LLC, and FREE SPEECH) 98TH DISTRICT COURT
SYSTEMS, LLC)

<p>2</p> <p>1</p> <p>2 *****</p> <p>3 VIDEO DEPOSITION OF</p> <p>4 BRITTANY PAZ</p> <p>5 FEBRUARY 14, 2022</p> <p>6 *****</p> <p>7</p> <p>8 VIDEO DEPOSITION OF BRITTANY PAZ, produced as a</p> <p>9 Witness at the instance of the PLAINTIFFS and duly</p> <p>10 sworn, was taken in the above-styled and numbered cause</p> <p>11 on FEBRUARY 14, 2022, from 9:06 a.m. to 5:25 p.m.,</p> <p>12 before Logan Kislingbury, Texas CSR, RPR, in and for</p> <p>13 the State of Texas, reported by machine shorthand, at</p> <p>14 the Law Offices of Kirker Davis, LLP, 8310-1 N. Capital</p> <p>15 of Texas Hwy #350, Austin, Texas, pursuant to the Texas</p> <p>16 Rules of Civil Procedure.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>4</p> <p>1 INDEX</p> <p>PAGE</p> <p>2 Appearances..... 3</p> <p>3 BRITTANY PAZ</p> <p>4 EXAMINATION BY MR. BANKSTON..... 5</p> <p>5 Changes and Signature..... 402</p> <p>6 Reporter's Certificate..... 405</p> <p>7 Reporter's Further Certification..... 407</p> <p>8 EXHIBITS</p> <p>9 NO. DESCRIPTION PAGE</p> <p>10 Exhibit 1 David Knight E-mail..... 72</p> <p>11 Exhibit 2 David Knight E-mail..... 73</p> <p>12 Exhibit 3 Photos..... 93</p> <p>13 Exhibit 4 Article..... 113</p> <p>14 Exhibit 5 Show Log..... 131</p> <p>15 Exhibit 6 Employee Records..... 136</p> <p>16 Exhibit 7 E-mail..... 167</p> <p>17 Exhibit 8 Research Binder..... 212</p> <p>18 Exhibit 9 Heslin Original Petition..... 216</p> <p>19 Exhibit 10 Video Screenshot..... 257</p> <p>20 Exhibit 11 David Jones E-mail..... 345</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>3</p> <p>1 A P P E A R A N C E S</p> <p>2 FOR THE PLAINTIFFS:</p> <p>3 Mr. Mark D. Bankston</p> <p>4 Kaster, Lynch, Farrar & Ball, LLP</p> <p>5 1117 Herkimer</p> <p>6 Houston, Texas 77008</p> <p>7 T: 713-221-8300</p> <p>8 mark@fbtrial.com</p> <p>9</p> <p>10 Mr. William R. Ogden</p> <p>11 Kaster, Lynch, Farrar & Ball, LLP</p> <p>12 1117 Herkimer</p> <p>13 Houston, Texas 77008</p> <p>14 T: 713-221-8300</p> <p>15 bill@fbtrial.com</p> <p>16</p> <p>17 FOR THE DEFENDANTS:</p> <p>18 Ms. Jacquelyn Blott</p> <p>19 Law Offices of Jacquelyn W. Blott</p> <p>20 100 University Blvd., Suite 225 #251</p> <p>21 Round Rock, Texas 78665</p> <p>22 T: 512-639-9904</p> <p>23 jblott@jblottlaw.com</p> <p>24</p> <p>25 ALSO PRESENT:</p> <p>Mr. Tim Bishop, Videographer</p>	<p>5</p> <p>1 BRITTANY PAZ,</p> <p>2 having first been duly sworn, testified as follows:</p> <p>3 THE VIDEOGRAPHER: This is the</p> <p>4 deposition of Brittany Paz. The date is February 14,</p> <p>5 2022 and the time is 9:06. May swear in the witness.</p> <p>6 MS. BLOTT: And before we get started,</p> <p>7 I'd like the record to reflect that I'm handing</p> <p>8 Mr. Bankston a check which represents the amount of the</p> <p>9 sanctions in the amount of 19,000-plus dollars, and</p> <p>10 also that the deposition is being taken pursuant to the</p> <p>11 protective orders entered in these causes of action.</p> <p>12 EXAMINATION</p> <p>13 QUESTIONS BY MR. BANKSTON:</p> <p>14 Q. All right. Ma'am, can you tell us your name.</p> <p>15 A. Sure. My name is Brittany Paz, P-A-Z.</p> <p>16 Q. You are not an employee of Mr. Jones or Free</p> <p>17 Speech Systems?</p> <p>18 A. No, I was contracted to be their corporate</p> <p>19 representative in --</p> <p>20 Q. You've --</p> <p>21 A. -- connection with these depositions.</p> <p>22 Q. Excuse me, sorry.</p> <p>23 A. That's okay.</p> <p>24 Q. You've never been an employee of Mr. Jones or</p> <p>25 Free Speech Systems?</p>

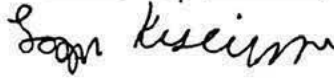
<p style="text-align: right;">390</p> <p>1 Q. I'm not --</p> <p>2 A. -- to do that, no. I didn't.</p> <p>3 Q. I'm not suggesting that.</p> <p>4 A. Okay.</p> <p>5 Q. I'm just asking if that happened or not.</p> <p>6 A. No.</p> <p>7 Q. Okay. Okay. Did you review any</p> <p>8 organizational chart for the company to tell you how it</p> <p>9 was structured?</p> <p>10 A. As far as reviewing a chart, no. I based my</p> <p>11 conclusions on the organization of the company based on</p> <p>12 my conversations with -- primarily with Melinda.</p> <p>13 Q. Okay. Well, I'm -- the reason I'm concerned</p> <p>14 is because I requested an organizational chart and I</p> <p>15 didn't get one.</p> <p>16 A. Okay.</p> <p>17 Q. And then surprise, surprise, Lafferty</p> <p>18 deposition, Kurt Nimmo Exhibit 7 is an organizational</p> <p>19 chart of the company with everybody's roles and what</p> <p>20 they do. And I'm wondering if you've ever seen that.</p> <p>21 A. I don't recall seeing that. When you -- when</p> <p>22 you say roles and what they do, you mean Free Speech,</p> <p>23 who and which departments there are and who works in</p> <p>24 each department and who is headed to each department?</p> <p>25 No, I don't recall seeing that. I'm sorry.</p>	<p style="text-align: right;">392</p> <p>1 has never done any business, you'd be the first person</p> <p>2 who'd be able to tell me that. Is that what you're</p> <p>3 telling me today?</p> <p>4 A. I don't know whether it's ever done any</p> <p>5 business. I can tell you now it doesn't do any</p> <p>6 business.</p> <p>7 Q. No, I want to know for the entire pendency of</p> <p>8 the suit did it do any business?</p> <p>9 A. I -- I don't know how long that it's been,</p> <p>10 but I can tell you right now it doesn't do any</p> <p>11 business.</p> <p>12 Q. Okay. I mean, like, for instance, I've --</p> <p>13 when I first brought this, you know, years ago,</p> <p>14 InfoWars, LLC is the entity listed on the InfoWars</p> <p>15 website. InfoWars, LLC is the entity listed on the</p> <p>16 terms of use for the website. Do you know anything</p> <p>17 about that?</p> <p>18 A. So I know that there's been a lot of</p> <p>19 entanglement between the various LLCs. And there's</p> <p>20 been efforts undergone to make everything more clear</p> <p>21 and structured and organized. So -- and that's -- but</p> <p>22 that's been in the last, you know, handful of years.</p> <p>23 So I don't know how long InfoWars has not</p> <p>24 been conducting any business for. I know that it's not</p> <p>25 being conducted now under InfoWars, LLC.</p>
<p style="text-align: right;">391</p> <p>1 Q. Okay. So in terms of seeing the company's</p> <p>2 business structure, if there does exist in plaintiffs'</p> <p>3 Exhibit 7 in the Lafferty deposition of Kurt Nimmo, an</p> <p>4 organizational chart of the company, you -- you didn't</p> <p>5 review that in trying to get ready for this topic?</p> <p>6 A. No.</p> <p>7 Q. Okay. Can you describe to me what InfoWars,</p> <p>8 LLC is?</p> <p>9 A. InfoWars, LLC, I don't think actually</p> <p>10 conducts any business. I think it's just a holder. I</p> <p>11 think all of the business is conducted through Free</p> <p>12 Speech.</p> <p>13 Q. You think that?</p> <p>14 A. Actually, I know that. All the business is</p> <p>15 --</p> <p>16 Q. That's what -- I mean --</p> <p>17 A. -- conducted through Free Speech. I don't</p> <p>18 think InfoWars does any actual business. InfoWars,</p> <p>19 LLC.</p> <p>20 Q. Don't think it does?</p> <p>21 A. It doesn't.</p> <p>22 Q. Do you know it does?</p> <p>23 A. Free Speech does all of the business.</p> <p>24 Q. Because if -- if -- let me put it this way.</p> <p>25 If you are saying to me right now, I know InfoWars, LLC</p>	<p style="text-align: right;">393</p> <p>1 Q. So we can say now, you understand -- right</p> <p>2 now, you understand what the relationship between</p> <p>3 InfoWars, LLC and Free Speech Systems is, which is</p> <p>4 nothing, really, because InfoWars doesn't do anything;</p> <p>5 right?</p> <p>6 A. Right.</p> <p>7 Q. Okay. But in terms of what it used to be,</p> <p>8 during the periods of some of this lawsuit, what the</p> <p>9 relationship between Free Speech Systems and InfoWars,</p> <p>10 LLC is, that's not something you're prepared to</p> <p>11 testify?</p> <p>12 A. I don't know about that, no.</p> <p>13 Q. Okay. Thanks. Can you tell me when is the</p> <p>14 first time in the company that an employee expressed</p> <p>15 there was a problem with InfoWars' coverage of Sandy</p> <p>16 Hook?</p> <p>17 A. Could you be more specific?</p> <p>18 Q. Huh-uh. No, I want to know -- I mean, I want</p> <p>19 to know any time this has happened. I would assume</p> <p>20 that that's something that we've looked into.</p> <p>21 A. I'm sorry. I've -- like I said, I've</p> <p>22 reviewed a lot of documents. And if -- if you can</p> <p>23 redirect me to a specific point in time, then that --</p> <p>24 Q. No, because I want something -- here's --</p> <p>25 here's the problem. So much of what you're telling me</p>

402	404
<p>1 CHANGES AND SIGNATURE</p> <p>2 Witness NAME: BRITTANY PAZ</p> <p>3 DATE OF DEPOSITION: FEBRUARY 14, 2022</p> <p>4 PAGE LINE CHANGE REASON</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>	<p>1 D-1-GN-18-001835</p> <p>2 NEIL HESLIN)</p> <p>3 VS.) IN DISTRICT COURT OF</p> <p>4 ALEX E. JONES, INFOWARS,) TRAVIS COUNTY, TEXAS</p> <p>5 LLC, FREE SPEECH SYSTEMS,) 261ST DISTRICT COURT</p> <p>6 LLC, and OWEN SHROYER)</p> <p>7 D-1-GN-18-001842</p> <p>8 LEONARD POZNER AND)</p> <p>9 VERNONIQUE DE LA ROSA)</p> <p>10 VS.) IN DISTRICT COURT OF</p> <p>11) TRAVIS COUNTY, TEXAS</p> <p>12 ALEX E. JONES, INFOWARS,)</p> <p>13 LLC, and FREE SPEECH) 345TH DISTRICT COURT</p> <p>14 SYSTEMS, LLC)</p> <p>15 D-1-GN-18-006623</p> <p>16 SCARLETT LEWIS)</p> <p>17 VS.) IN DISTRICT COURT OF</p> <p>18) TRAVIS COUNTY, TEXAS</p> <p>19 ALEX E. JONES, INFOWARS,)</p> <p>20 LLC, and FREE SPEECH) 98TH DISTRICT COURT</p> <p>21 SYSTEMS, LLC)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
403	405
<p>1 I, BRITTANY PAZ, have read the foregoing</p> <p>2 deposition and hereby affix my signature that same is</p> <p>3 true and correct, except as noted herein.</p> <p>4</p> <p>5 _____</p> <p>6 BRITTANY PAZ</p> <p>7</p> <p>8 STATE OF)</p> <p>9 COUNTY OF)</p> <p>10</p> <p>11 BEFORE ME, _____, on this day</p> <p>12 personally appeared BRITTANY PAZ, known to me (proved</p> <p>13 to me on the oath of _____ or</p> <p>14 through _____ (description of identity</p> <p>15 card or other document)) to be the person whose name is</p> <p>16 subscribed to the foregoing instrument and acknowledged</p> <p>17 to me same was executed for the purposes and</p> <p>18 consideration therein expressed.</p> <p>19</p> <p>20 Given under my hand and seal of office this _____</p> <p>21 day of _____, _____.</p> <p>22</p> <p>23</p> <p>24 NOTARY PUBLIC IN AND FOR</p> <p>25 THE STATE OF _____</p>	<p>1 REPORTER'S CERTIFICATION</p> <p>2 DEPOSITION OF BRITTANY PAZ</p> <p>3 FEBRUARY 14, 2022</p> <p>4 I, LOGAN KISLINGBURY, Certified Shorthand Reporter</p> <p>5 in and for the State of Texas, hereby certify to the</p> <p>6 following:</p> <p>7 That the Witness, BRITTANY PAZ, was duly sworn by</p> <p>8 the officer and that the transcript of the oral</p> <p>9 deposition is a true record of the testimony given by</p> <p>10 the Witness;</p> <p>11 That the deposition transcript/errata sheet was</p> <p>12 submitted on _____ to the</p> <p>13 Witness or to the attorney for the Witness for</p> <p>14 examination, signature and return to me by</p> <p>15 _____;</p> <p>16 That the amount of time used by each party at the</p> <p>17 deposition is as follows:</p> <p>18 Mr. Mark D. Bankston: 6 hours, 24 minutes</p> <p>19 Mr. William R. Ogden:</p> <p>20 Ms. Jacquelyn Blott:</p> <p>21 That pursuant to information given to the</p> <p>22 deposition officer at the time said testimony was</p> <p>23 taken, the following includes Counsel for all parties</p> <p>24 of the record:</p> <p>25 Mr. Mark D. Bankston</p> <p>Mr. William R. Ogden</p> <p>Ms. Jacquelyn Blott</p>

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1 I further certify that I am neither Counsel for,
2 related to, nor employed by any of the parties or
3 attorneys in the action in which this proceeding was
4 taken, and further that I am not financially or
5 otherwise interested in the outcome of the action.

6 Certified to me by this _____ day of _____,
7 _____.



LOGAN KISLINGBURY, Texas CSR 11388
Expiration Date: 3-31-2022
Res Ipsa Litigation Support, LLC
Firm Registration No. 11371
501 Congress Avenue, Suite 150
Austin, Texas 78701
Tel: 512.334.6777

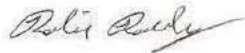
407

1 FURTHER CERTIFICATION

2
3 That \$_____ is the deposition officer's charges
4 to the _____ for
5 preparing the original deposition transcript and any
6 copies of exhibits;

7 That the deposition was delivered in accordance
8 with Rule 203.3, and that a copy of this certificate
9 was served on all parties shown herein on _____
10 and filed with the Clerk.

11 Certified to by me this _____ day of _____,
12 _____



13
14 Res Ipsa Litigation Support, LLC
15 Firm Registration No. 11371
16 501 Congress Avenue, Suite 150
Austin, Texas 78701
Tel: 512.334.6777

EXHIBIT D

NO. X06-UWY-CV-18-6046436S	)	SUPERIOR COURT
)	
ERICA LAFFERTY, ET AL,	)	COMPLEX LITIGATION DOCKET
)	
VS.	)	AT WATERBURY
)	
ALEX EMRIC JONES, ET AL,	)	JUNE 23, 2021
)	
_____)	
)	
NO. X-06- UWY-CV18-6046437-S	)	SUPERIOR COURT
)	
WILLIAM SHERLACH,	)	COMPLEX LITIGATION DOCKET
)	
VS.	)	AT WATERBURY
)	
ALEX EMRIC JONES, ET AL.	)	JUNE 23, 2021
)	
_____)	
)	
NO. X06-UWY-CV-18-6046438S	)	SUPERIOR COURT
)	
WILLIAM SHERLACH, ET AL.,	)	COMPLEX LITIGATION DOCKET
)	
VS.	)	AT WATERBURY
)	
ALEX EMRIC JONES, ET AL.	)	JUNE 23, 2021

CONFIDENTIAL

ORAL AND VIDEOTAPED DEPOSITION OF

MICHEAL ZIMMERMANN

JUNE 23, 2021

ORAL AND VIDEOTAPED DEPOSITION OF MICHEAL ZIMMERMANN,
produced as a witness at the instance of the PLAINTIFF, and
duly sworn, was taken in the above-styled and -numbered cause
on JUNE 23, 2021, from 10:45 a.m. to 11:41 a.m., before

1 Rosalind Dennis, Notary in and for the State of Texas, reported
2 by machine shorthand, appearing remotely from Dallas, Texas,
3 pursuant to the Federal Rules of Civil Procedure and the
4 provisions stated on the record or attached hereto.
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A P P E A R A N C E S

FOR THE PLAINTIFFS:

CHRISTOPHER M. MATTEI, ESQ.
MATTHEW S. BLUMENTHAL, ESQ.
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Bridgeport, Connecticut 06604
Cmattei@koskoff.com
mblumenthal@koskoff.com
(203) 336-4421

FOR THE DEFENDANTS:

JAY MARSHALL WOLMAN, ESQ.
RANDAZZA LEGAL GROUP
100 Pearl Street
14th Floor
Hartford, Connecticut 06103
jmw@randazza.com
(702) 420-2001

ALSO PRESENT:

Joel Raguso - Videographer

1 received by Infowars Health, LLC?

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4 Q. Does Infowars Health, LLC have any employees?

5 A. It does not.

6 Q. Has it ever had any employees?

7 A. It has not.

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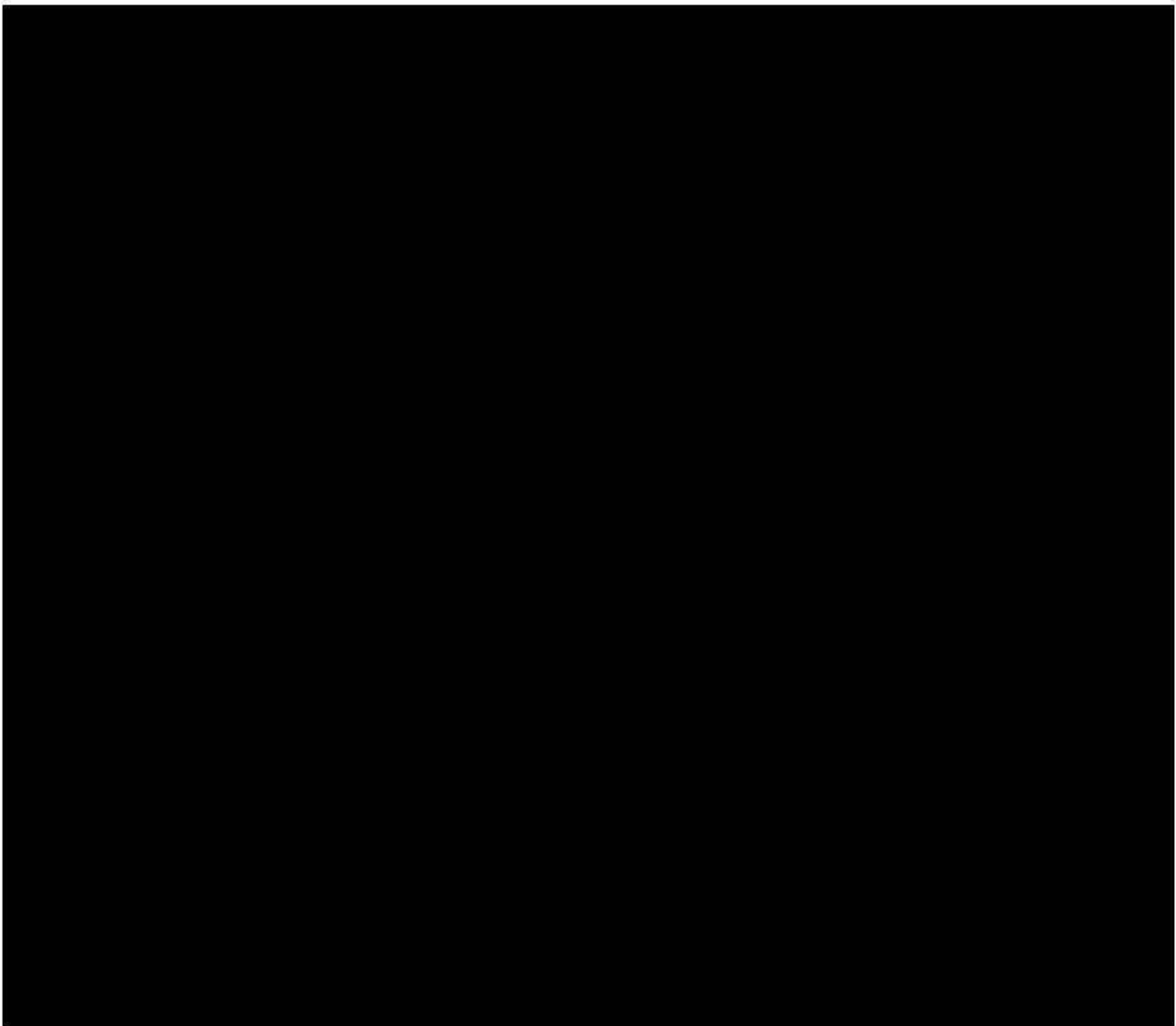
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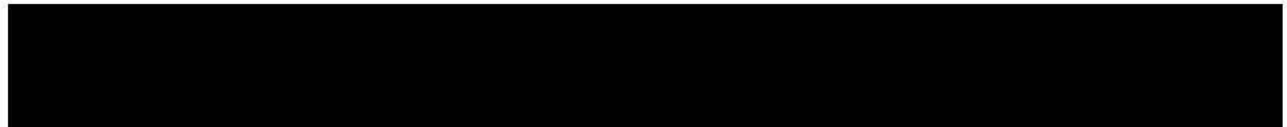
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Q. Has it ever had any office space?

A. It has not.



Q. Has Infowars Health, LLC ever had any contracts with any other person or entity?

A. It has not.

Q. Has -- apart from receiving money through the bank account that you mentioned from Youngevity, has

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MR. WOLMAN: Objection. Beyond the scope.

Q. (BY MR. BLUMENTHAL) I'm sorry. Was that a yes?

A. Yes.

Q. Okay. Who owns Infowars Health, LLC?

A. Alex Jones is the sole owner and managing member of member-managed LLC.

Q. Okay. Does Infowars Health, LLC own any part of any other entity?

A. It does not.

Q. And Alex Jones has complete control over Infowars Health, LLC?

MR. WOLMAN: Objection.

A. That is correct.

Q. (BY MR. BLUMENTHAL) He has control and complete control over its cost in business practice?

MR. WOLMAN: Objection.

A. That is correct.

Q. (BY MR. BLUMENTHAL) And if Alex Jones wanted to do anything with Infowars Health, LLC, there is nobody who could tell him no; fair to say?

1 NO. X06-UWY-CV-18-6046436S) SUPERIOR COURT
ERICA LAFFERTY, ET AL,)
VS.) COMPLEX LITIGATION DOCKET
ALEX EMRIC JONES, ET AL,) AT WATERBURY
JUNE 23, 2021

NO. X-06- UWY-CV18-6046437-S) SUPERIOR COURT
WILLIAM SHERLACH,) COMPLEX LITIGATION DOCKET
VS.) AT WATERBURY
ALEX EMRIC JONES, ET AL.) JUNE 23, 2021

NO. X06-UWY-CV-18-6046438S) SUPERIOR COURT
WILLIAM SHERLACH, ET AL.,) COMPLEX LITIGATION DOCKET
VS.) AT WATERBURY
ALEX EMRIC JONES, ET AL.) JUNE 23, 2021

15 REPORTER'S CERTIFICATION

16 DEPOSITION OF MICHEAL ZIMMERMANN

17 JUNE 23, 2021

18

19 I, Rosalind Dennis, Notary in and for the State of Texas,
20 hereby certify to the following:

21 That the witness, MICHEAL ZIMMERMANN, was duly sworn by
22 the officer and that the transcript of the oral deposition is a
23 true record of the testimony given by the witness;

24 That the original deposition was delivered to
25 MR. BLUMENTHAL.

1 That the amount of time used by each party at the
2 deposition is as follows:

3 MR. BLUMENTHAL00 HOUR(S):48 MINUTE(S)
4 MR. WOLMAN00 HOUR(S):00 MINUTE(S)

5 That pursuant to information given to the deposition
6 officer at the time said testimony was taken, the following
7 includes counsel for all parties of record:

8 Mr. Blumenthal Attorney for the Plaintiff.

9 Mr. Wolman Attorney for the Defendant.

10 I further certify that I am neither counsel for, related
11 to, nor employed by any of the parties or attorneys in the
12 action in which this proceeding was taken, and further that I
13 am not financially or otherwise interested in the outcome of
14 the action.

15 Certified to by me this 5th day of July, 2021.


16
17 
18 _____
19 ROSALIND DENNIS
20 Notary in and for the
21 State of Texas
22 Notary: 129704774
23 My Commission Expires: 10/8/2022
24 US LEGAL SUPPORT
25 8144 Walnut Hill Lane
Suite 120
Dallas, Texas 75231
214-741-6001
214-741-6821 (FAX)
Firm Registration No. 343

EXHIBIT E

NO. X06-UWY-CV-18-6046436S	)	SUPERIOR COURT
)	
ERICA LAFFERTY, ET AL,	)	COMPLEX LITIGATION DOCKET
)	
VS.	)	AT WATERBURY
)	
ALEX EMRIC JONES, ET AL,	)	JUNE 23, 2021
)	
)	
)	
NO. X-06- UWY-CV18-6046437-S	)	SUPERIOR COURT
)	
WILLIAM SHERLACH,	)	COMPLEX LITIGATION DOCKET
)	
VS.	)	AT WATERBURY
)	
ALEX EMRIC JONES, ET AL.	)	JUNE 23, 2021
)	
)	
)	
NO. X06-UWY-CV-18-6046438S	)	SUPERIOR COURT
)	
WILLIAM SHERLACH, ET AL.,	)	COMPLEX LITIGATION DOCKET
)	
VS.	)	AT WATERBURY
)	
ALEX EMRIC JONES, ET AL.	)	JUNE 23, 2021

CONFIDENTIAL

ORAL AND VIDEOTAPED DEPOSITION OF

MICHEAL ZIMMERMANN

JUNE 23, 2021

ORAL AND VIDEOTAPED DEPOSITION OF MICHEAL ZIMMERMANN,
produced as a witness at the instance of the PLAINTIFF, and
duly sworn, was taken in the above-styled and -numbered cause
on JUNE 23, 2021, from 12:15 p.m. to 1:19 p.m., before Rosalind

1 Dennis, Notary in and for the State of Texas, reported by
2 machine shorthand, appearing remotely from Dallas, Texas,
3 pursuant to the Federal Rules of Civil Procedure and the
4 provisions stated on the record or attached hereto.
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A P P E A R A N C E S

FOR THE PLAINTIFFS:

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MATTHEW S. BLUMENTHAL, ESQ.
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FOR THE DEFENDANTS:

JAY MARSHALL WOLMAN, ESQ.
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Hartford, Connecticut 06103
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(702) 420-2001

ALSO PRESENT:

Joel Raguso - Videographer

1 information that would tend to indicate that the Sandy Hook
2 shooting did not include 20 children being killed and six
3 educators being killed?

4 MR. WOLMAN: Objection.

5 A. It doesn't hold any information about anything, that
6 included.

7 Q. (BY MR. BLUMENTHAL) So is that a no?

8 A. That's a no.

9 Q. And has Prison Planet TV, LLC ever had access to any
10 information that would tend to indicate that the Sandy Hook
11 shooting involved crisis actors?

12 MR. WOLMAN: Objection.

13 A. Prison Planet TV, LLC does not have access to any
14 information, no.

15 Q. (BY MR. BLUMENTHAL) So Prison Planet TV, LLC has no
16 bases -- withdrawn.

17 All right. So does Prison Planet TV, LLC have
18 employees?

19 A. It does not.

20 Q. Has it ever?

21 A. It has not.

22

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1 Q. (BY MR. BLUMENTHAL) And Prison Planet TV, LLC
2 directly and financially benefited from all programming on
3 prisonplanet.tv, including Alex Jones Sandy Hook related
4 programming?

5 MR. WOLMAN: Objection.

6 A. That's correct.

7 Q. (BY MR. BLUMENTHAL) What does Prison Planet mean?

8 A. The company has no knowledge of that.

9 Q. Has Prison Planet TV, LLC had any purpose since
10 September of 2018 when the PayPal service ceased?

11 A. It has not.

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1 Q. Okay. All right. Who owns Prison Planet TV, LLC?

2 A. Alex Jones.

3 Q. Does anyone besides Alex Jones have any ownership or
4 control at Prison Planet TV, LLC?

5 A. No.

6 Q. Does Prison Planet TV, LLC own any part of any other
7 entity?

8 A. No.

9 Q. And so Alex Jones has complete control over Prison
10 Planet TV, LLC?

11 A. Yes. He's the -- the sole owner and managing member
12 of Prison Planet TV, LLC.

13 Q. And he's always had complete control over Prison
14 Planet TV, LLC?

15 MR. WOLMAN: Objection.

16 A. I believe so, unless there is something filed in
17 error and correct at a later point.

18 Q. (BY MR. BLUMENTHAL) Okay. And Alex Jones has
19 always had complete control over Prison Planet TV, LLC's policy
20 and business practice?

21 MR. WOLMAN: Objection.

22 A. That's correct.

23 Q. (BY MR. BLUMENTHAL) And if Alex Jones wanted to do
24 something through or with Prison Planet TV, LLC, there is no
25 one who can tell him no, correct?

1 NO. X06-UWY-CV-18-6046436S) SUPERIOR COURT
)
ERICA LAFFERTY, ET AL,) COMPLEX LITIGATION DOCKET
)
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)
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)
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NO. X-06- UWY-CV18-6046437-S) SUPERIOR COURT
)
WILLIAM SHERLACH,) COMPLEX LITIGATION DOCKET
)
VS.) AT WATERBURY
)
ALEX EMRIC JONES, ET AL.) JUNE 23, 2021
)
)
)
NO. X06-UWY-CV-18-6046438S) SUPERIOR COURT
)
WILLIAM SHERLACH, ET AL.,) COMPLEX LITIGATION DOCKET
)
VS.) AT WATERBURY
)
ALEX EMRIC JONES, ET AL.) JUNE 23, 2021

15 REPORTER'S CERTIFICATION

16 DEPOSITION OF MICHEAL ZIMMERMANN

17 JUNE 23, 2021

18

19 I, Rosalind Dennis, Notary in and for the State of Texas,
20 hereby certify to the following:

21 That the witness, MICHEAL ZIMMERMANN, was duly sworn by
22 the officer and that the transcript of the oral deposition is a
23 true record of the testimony given by the witness;

24 That the original deposition was delivered to
25 MR. BLUMENTHAL.

1 That the amount of time used by each party at the
2 deposition is as follows:

3 MR. BLUMENTHAL00 HOUR(S):51 MINUTE(S)
4 MR. WOLMAN00 HOUR(S):04 MINUTE(S)

5 That pursuant to information given to the deposition
6 officer at the time said testimony was taken, the following
7 includes counsel for all parties of record:

8 Mr. Blumenthal Attorney for the Plaintiff.

9 Mr. Wolman Attorney for the Defendant.

10 I further certify that I am neither counsel for, related
11 to, nor employed by any of the parties or attorneys in the
12 action in which this proceeding was taken, and further that I
13 am not financially or otherwise interested in the outcome of
14 the action.

15 Certified to by me this 5th day of July, 2021.

16
17 

18 ROSALIND DENNIS
19 Notary in and for the
20 State of Texas
21 Notary: 129704774
22 My Commission Expires: 10/8/2022
23 US LEGAL SUPPORT
24 8144 Walnut Hill Lane
25 Suite 120
Dallas, Texas 75231
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Firm Registration No. 343

EXHIBIT F

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE UNITED STATES TRUSTEE
KEVIN M. EPSTEIN, UNITED STATES TRUSTEE
REGION 7, SOUTHERN and WESTERN DISTRICTS OF TEXAS
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

IN RE:	§	
INFOW, LLC <i>et al.</i>	§	CASE NO. 22-60020
	§	
	§	CHAPTER 11 (Subchapter V)
	§	Jointly Administered
DEBTORS. ¹	§	

**OBJECTION OF UNITED STATES TRUSTEE TO
DEBTORS' EMERGENCY MOTION FOR ORDER AUTHORIZING APPOINTMENT
OF RUSSELL F. NELMS AND RICHARD S. SCHMIDT AS TRUSTEES OF THE 2022
LITIGATION SETTLEMENT TRUST AND GRANTING RELATED RELIEF**

TO THE HONORABLE CHRISTOPHER M. LOPEZ
UNITED STATES BANKRUPTCY JUDGE:

Kevin M. Epstein, the United States Trustee for Region 7 (the "U.S. Trustee"), objects to
the *Debtors' Emergency Motion for Order Authorizing Appointment of Russell F. Nelms and*

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are as follows: InfoW, LLC, f/k/a Infowars, LLC (6916), IWHealth, LLC f/k/a Infowars Health, LLC (no EIN), Prison Planet TV, LLC (0005). The address for service to the Debtors is PO Box 1819, Houston, TX 77251-1819.

Richard S. Schmidt as Trustees of the 2022 Litigation Settlement Trust and Granting Related Relief [Dkt. No. 6] (the “Motion”)², and represents as follows:

I. Preliminary Statement

The filing of these three subchapter V cases raises numerous questions—the answers to which may demonstrate these cases are an abuse of the bankruptcy system. Alex Jones and Free Speech Systems, LLC (“FSS”) (collectively, the “Alex Jones Entities”) are not debtors, but they are defendants along with Debtors in numerous lawsuits regarding the 2012 Sandy Hook shootings—and it was an imminent trial on damages that allegedly precipitated these filings. Alex Jones owns 100% of FSS (the entity that appears to generate virtually all of the revenue among the Jones-owned entities) and owned 100% of Debtors before he transferred all of his equity in the Debtors to the Litigation Settlement Trust just before filing these bankruptcy cases.³ Why didn’t Alex Jones or FSS file for bankruptcy relief when Debtors did? They are both defendants in the same litigation as Debtors, and all of them have been found liable in those cases—in unliquidated amounts. Moreover, Debtors’ assets are estimated to be virtually nil for a case of this significance (\$50,000), while Alex Jones and FSS are fully funding the administrative expenses of these bankruptcy cases without filing themselves. Why? It appears that Jones intends to leverage the bankruptcy filings of his holding companies to extend the automatic stays of pending litigation against Debtors to him and FSS, while he maintains full control of FSS and its assets going forward. Thus, this Motion to appoint the trustees for the Litigation Settlement Trust seems to be just the first step for Debtors to carry out Jones’s and FSS’s scheme of avoiding the burdens of bankruptcy while reaping its benefits. The Court and parties in interest must be given more time

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

³ See Motion ¶¶ 7-9.

to consider these and other critical questions that may dictate the ultimate outcome of these cases, and the Motion is thus premature and should be denied or at least deferred.

Moreover, the relief sought is not authorized by the Bankruptcy Code. These are not section 1104 trustees. These are not post-confirmation trustees whose identities must be disclosed before plan confirmation. Rather, the trustees are simply acting as management of the Debtor LLCs, and bankruptcy courts do not typically approve the appointment of board members or the managers of companies outside of section 1104. Thus, the Motion seeks relief beyond that which the bankruptcy court has authority to grant under section 105 and would provide non-debtor parties extraordinary control over these cases and extraordinary benefits without the ability of all parties in interest and the Court to investigate whether such relief is appropriate. Moreover, much of the relief that would be subsumed in making such an appointment is objectionable, including exculpating fiduciaries before they even begin their work. Exculpation, to the extent it is ever appropriate, is only appropriate at the conclusion of one's service.

Given the many outstanding questions, there is no reason to hear this Motion on an exigent basis because there is no emergency here. Debtors cite to no immediate or irreparable harm that will be caused if the Court does not hear the Motion on an emergency basis. There is a Trustee in place, and the Declaration of Trust that created and governs the Litigation Settlement Trust provides no less than 45 days for the Litigation Settlement Trustees to be put into place.⁴ Further, the stated purpose of the Litigation Settlement Trust is to be incorporated into a confirmed plan.⁵ As of the date of the Motion no plan had been proposed, let alone confirmed. Given these facts,

⁴ See § 2.1 of the Declaration of Trust attached as Exhibit A to the Motion and filed at Dkt. No. 6-2. Moreover, the parties to the Declaration of Trust can extend the 45 days.

⁵ See the "Whereas" clauses to the Declaration of Trust. *Id.* at pgs. 5-6.

the Motion should be heard on at least 21 days' notice to allow interested parties in these bankruptcy cases to appear and be heard.

II. Jurisdiction, Venue & Constitutional Authority to Enter a Final Order

1. The Court has jurisdiction to consider this matter under 28 U.S.C. § 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). Venue is proper in this district under 28 U.S.C. § 1408.

2. This Court has constitutional authority to enter a final order in this matter. If it is determined that the bankruptcy judge does not have the constitutional authority to enter a final order or judgment in this matter, the U.S. Trustee consents to the entry of a final order or judgment by this Court in this matter.

3. Kevin M. Epstein is the duly appointed U.S. Trustee for Region 7. The U.S. Trustee has standing to raise, appear and be heard on any issue in a case or proceeding under the Bankruptcy Code. 11 U.S.C. § 307.

4. The U.S. Trustee has a statutory duty to monitor the administration of cases commenced under the Bankruptcy Code. 28 U.S.C. § 586(a)(3).

III. Factual Background

A. General Information

5. On April 17, 2022 (the "Petition Date"), Debtors filed chapter 11 voluntary petitions and elected to proceed under Subchapter V of chapter 11 on their respective Petitions.

6. On April 18, 2022, the Court entered the Order directing joint administration of the chapter 11 cases solely for procedural purposes. *See* Dkt. No. 8.

7. On April 18, 2022, the U.S. Trustee appointed Melissa Haselden as Debtors' Subchapter V Trustee. *See* Dkt. Nos. 9 and 12.

B. The Litigation Settlement Trust and Trustees

8. The Motion seeks the Court's authority to appoint the Litigation Settlement Trustees for a Litigation Settlement Trust that was established on April 14, 2022, just days prior to the Petition Date.

9. Most of the terms of the Proposed Order are simply a restatement of what the Declaration of Trust already provides for, including:

- Exculpation of claims against Litigation Settlement Trustees;⁶
- Powers and duties of the Litigation Settlement Trustees;⁷
- Reimbursement and compensation of the Litigation Settlement Trustees;⁸
- Resignation notice requirements for the Litigation Settlement Trustees;⁹ and
- Removal of the Litigation Settlement Trustees.¹⁰

10. If granted, the Motion will not only authorize the appointment of the Litigation Settlement Trustees but will also put the Court's imprimatur on the exculpation and release of the Litigation Settlement Trustees, their employees, agents, advisors, and professionals from liability for their acts or omissions connected to these chapter 11 cases. Such exculpations and releases would be premature, given that the Litigation Settlement Trustees have not yet performed their duties under the Litigation Trust Settlement Agreement.

IV. Argument

⁶ See §3.10 of the Declaration of Trust. Dkt. No. 6-2 at pg. 22.

⁷ See Article 3 of the Declaration of Trust. Dkt. No. 6-2 at pgs. 16-23.

⁸ See §2.4 of the Declaration of Trust. Dkt. No. 6-2 at pg. 16.

⁹ See §2.3(b) of the Declaration of Trust. Dkt. No. 6-2 at pg. 15.

¹⁰ See §2.3(c) of the Declaration of Trust. Dkt. No. 6-2 at pg. 15.

11. Section 105(a) gives bankruptcy courts the equitable power to issue any order “that is necessary or appropriate to carry out the provisions” of the Bankruptcy Code, and it is in this section that bankruptcy courts find their general equitable powers. *See Omni Mfg., Inc. v. Smith (In re Smith)*, 21 F.3d 660, 665 (5th Cir. 1994).

12. Those powers, however, “have their limits,” *Id.*, and “can only be exercised within the confines of the Bankruptcy Code.” *Law v. Siegel*, 571 U.S. at 415, 421 (2014) (internal quotations and citations omitted), and *Norwest Bank Worthington v. Ahlers*, 485 U.S. 197, 206, 99 L. Ed. 2d 169, 108 S. Ct. 963 (1988); *see also Southmark Corp. v. Grosz (In re Southmark Corp.)*, 49 F.3d 1111, 1116 (5th Cir. 1995) (stating that § 105(a) “does not authorize the bankruptcy courts to create substantive rights that are otherwise unavailable under applicable law,” or “to act as roving commissions to do equity”) (internal quotation marks omitted); *In re Fesco Plastics Corp.*, 996 F.2d 152, 154 (7th Cir. 1993) (“Under this section, a court may exercise its equitable power only as a means to fulfill some specific Code provision. By the same token, when a specific Code section addresses an issue, a court may not employ its equitable powers to achieve a result not contemplated by the Code.”) (citations omitted).

13. Section 105 does not support the relief sought by the Debtors because the Motion is not seeking to carry out any provision of the Bankruptcy Code; rather, the Motion is seeking to effectuate a matter of corporate governance. The Motion is thus both premature and superfluous.

14. Debtors argue in support of the Motion that the Litigation Settlement Trustees have required as a condition of their acceptance of the role that the Court approve their appointment and the terms of the proposed Order. Even if section 105 authorized the relief requested by Debtors, this is not a sufficient basis to grant the Motion. The Litigation Settlement Trustees have the protections of the Declaration Trust and applicable law. If that protection is not sufficient, they do

not have to accept the role. But in any event, that is not an issue for this Court. The Court should not be appointing what are in effect board members of the Debtors, no matter how qualified they are.

15. Moreover, the Motion seeks Court approval for exculpation and release provisions benefiting the non-debtor Trustees in the Litigation Settlement Trust agreement. While third parties are free to enter into agreements, Debtors are taking this a step further by seeking an emergency court order to enforce such agreement on third parties. Court-ordered exculpation in chapter 11, to the extent permitted, is a backward-looking doctrine that allows courts to free parties from litigation risk over events that took place during a case and were approved by a court with appropriate jurisdiction provided those parties did not act negligently or in bad faith. It is not meant to bless events that will take place in the future, over which the Court has not had any oversight role. Similarly, releases cannot excuse conduct that has not yet occurred. Such a pre-approved release would be tantamount to a “get out of jail free card.”

16. Debtors also argue that the Litigation Settlement Trust is an integral part of a consensual plan and that the Litigation Settlement Trust needs the Litigation Settlement Trustees in place to make a consensual plan achievable. But while confirmation of a consensual plan is an important element of any chapter 11 case, there is no plan on file. These cases were filed only days ago. As discussed above, there is much that is still unknown about these cases and much that will need to be known before negotiations toward a consensual plan can even begin. And under the statute, the appointed Subchapter V Trustee will have a vital role to play in the negotiation and development of that plan, along with the Debtors. *See* 11 U.S.C. § 1183(b)(7). There is no need to immediately appoint these Litigation Settlement Trustees to perform that role.

17. In any event, Debtors should not be permitted to stack the deck prepetition to create the perceived necessity for a certain outcome like that sought by the Motion. There was no requirement that the Alex Jones Entities transfer the equity of the Debtors into the Litigation Settlement Trust and set these cases up as they have. The Alex Jones Entities could instead have chosen to file bankruptcy, received the benefit of the automatic stay provisions of section 362 of the Bankruptcy Code, and directly been a part of the negotiations and facilitation of a consensual plan (which plan may have utilized the vehicle of a settlement trust). Were the cases set up this way, all parties in interest would have had transparency into the assets and liabilities of all the parties, including Alex Jones and FSS, that are relevant and necessary for successful completion of these cases. Instead, Debtors and the Alex Jones Entities have tried to precast the outcome with the creation of the Litigation Settlement Trust to avoid shining a light on the entities left out of this filing—entities that are at the very fulcrum of these cases and the disputes that led to them—without input from the Sandy Hook Plaintiffs or any other party in interest.

18. The Court should not accept Debtors' improper invitation to engage in matters of corporate governance and pre-approve a process essential to a plan that has yet to be filed.¹¹ Whatever the Debtors' intentions are, the Motion is unquestionably premature and must be denied or at the very least deferred, to better allow all parties reasonable time to consider the numerous serious questions raised in these cases. Reliance on Section 105(a) is unauthorized, and its use in this context would serve as a bad precedent for others to manipulate the system by purposefully stacking the deck against the most vulnerable of creditors.

V. Conclusion

¹¹ It is worth noting that unless the Court determines there is cause for the appointment of a creditors' committee and orders the appointment of one, the U.S. Trustee is prohibited from soliciting and appointing a committee of unsecured creditors in a subchapter V case such as these cases. 11 U.S.C. § 1102(a)(3).

WHEREFORE the U.S. Trustee respectfully requests that this Court deny the Motion and grant such other and further relief as it may deem just and proper.

Dated: April 21, 2022

Respectfully Submitted,

KEVIN M. EPSTEIN
UNITED STATES TRUSTEE

By: /s/Jayson B. Ruff
Jayson B. Ruff
Trial Attorney
United States Department of Justice
Office of the United States Trustee
Michigan Bar No. P69893
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Telephone: (713)718-4650 ext. 252
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/s/HA M. NGUYEN
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515 Rusk Street, Suite 3516
Houston, Texas 77002
E-mail: Ha.Nguyen@usdoj.gov
Cell: 202-590-7962

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic means via ECF transmission to all Pacer System participants in these bankruptcy cases, on the 21st day of April, 2022.

/s/Jayson B. Ruff

Jayson B. Ruff

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

IN RE:	§	
INFOW, LLC <i>et al.</i>	§	CASE NO. 22-60020
	§	
	§	CHAPTER 11 (Subchapter V)
	§	Jointly Administered
DEBTORS. ¹	§	

**ORDER SUSTAINING OBJECTION OF UNITED STATES TRUSTEE TO
DEBTORS' EMERGENCY MOTION FOR ORDER AUTHORIZING APPOINTMENT
OF RUSSELL F. NELMS AND RICHARD S. SCHMIDT AS TRUSTEES OF THE 2022
LITIGATION SETTLEMENT TRUST AND GRANTING RELATED RELIEF**

[Related Dkt. No. __]

CAME ON for consideration by the *Objection of the United States Trustee to Debtors' Emergency Motion for Order Authorizing Appointment of Russell F. Nelms and Richard S. Schmidt as Trustees of the 2022 Litigation Settlement Trust and Granting Related Relief U.S. Trustee's Objection to Debtor's Designation as a Subchapter V Small Business Debtor* (the "Objection").

For the reasons set forth on the record, it is hereby

ORDERED that the Objection is **SUSTAINED**; it is

FURTHER ORDERED that the *Debtors' Emergency Motion for Order Authorizing Appointment of Russell F. Nelms and Richard S. Schmidt as Trustees of the 2022 Litigation Settlement Trust and Granting Related Relief* [Dkt. No. 6] (the "Motion") is denied with prejudice.

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are as follows: InfoW, LLC, f/k/a Infowars, LLC (6916), IWHealth, LLC f/k/a Infowars Health, LLC (no EIN), Prison Planet TV, LLC (0005). The address for service to the Debtors is PO Box 1819, Houston, TX 77251-1819.